

Internal Revenue bulletin

Bulletin No. 1999-21
May 24, 1999

HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

INCOME TAX

Rev. Rul. 99-24, page 3.

Low-income housing credit; satisfactory bond; "bond factor" amounts for the period April through June 1999. This ruling announces the monthly bond factor amounts to be used by taxpayers who dispose of qualified low-income buildings or interests therein during the period April through June 1999.

Notice 99-26, page 4.

Electricity produced from certain renewable resources; calendar year 1999 inflation adjustment factor and reference prices. This notice announces the calendar year 1999 inflation adjustment factor and reference prices for the renewable electricity production credit under section 45 of the Code.

EMPLOYEE PLANS

Notice 99-28, page 8.

Weighted average interest rate update. The weighted average interest rate for May 1999 and the resulting permissible range of interest rates used to calculate current liability for purposes of the full funding limitation of section 412(c)(7) of the Code are set forth.

EXEMPT ORGANIZATIONS

Announcement 99-54, page 32.

A list is given of organizations now classified as private foundations.

ADMINISTRATIVE

Rev. Proc. 99-24, page 8.

General rules and specifications for private printing of substitute Forms W-2 and W-3. Specifications are set forth for the private printing of paper substitutes for tax year 1999 Form W-2, Wage and Tax Statement, and Form W-3, Transmittal of Wage and Tax Statements. Rev. Proc. 98-33 superseded.

Rev. Proc. 99-25, page 24.

Magnetic Media/Electronic Filing Program; Form 1040NR. Participants in the Magnetic Media/Electronic Filing Program for Form 1040NR, U.S. Nonresident Alien Income Tax Return, are informed of their obligations to the Service, taxpayers, and other participants. Rev. Proc. 98-36 superseded.

Notice 99-27, page 4.

Comments are requested on the interpretation of section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998. Section 1203 provides generally that IRS employees must be terminated from federal employment if they violate certain rules in connection with the performance of their official duties, absent mitigation by the Commissioner. Comments should be submitted by June 30, 1999.

Notice 99-29, page 8.

Innocent spouse equitable relief. The date for providing comments on Notice 98-61, 1998-51 I.R.B. 13, is extended to June 30, 1999. Notice 98-61 provides interim guidance for taxpayers seeking equitable relief from federal tax liability under section 6015(f) or 66(c) of the Code.

Finding Lists begin on page 36.



Department of the Treasury
Internal Revenue Service

Mission of the Service

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities

and by applying the tax law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly and may be obtained from the Superintendent of Documents on a subscription basis. Bulletin contents are consolidated semiannually into Cumulative Bulletins, which are sold on a single-copy basis.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and proce-

dures must be considered, and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.

This part is divided into two subparts as follows: Subpart A, Tax Conventions, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.

This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The first Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the first Bulletin of the succeeding semiannual period, respectively.

The contents of this publication are not copyrighted and may be reprinted freely. A citation of the Internal Revenue Bulletin as the source would be appropriate.

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Part I. Rulings and Decisions Under the Internal Revenue Code of 1986

Section 42.—Low-Income Housing Credit

Low-income housing credit; satisfactory bond; “bond factor” amounts for the period April through June 1999. This ruling announces the monthly bond factor amounts to be used by taxpayers who dispose of qualified low-income buildings or interests therein during the period April through June 1999.

Rev. Rul. 99–24

In Rev. Rul. 90–60, 1990–2 C.B. 3, the Internal Revenue Service provided guidance to taxpayers concerning the general methodology used by the Treasury Department in computing the bond factor amounts used in calculating the amount of bond considered satisfactory by the Secretary under § 42(j)(6) of the Internal Revenue Code. It further announced that

the Secretary would publish in the Internal Revenue Bulletin a table of “bond factor” amounts for dispositions occurring during each calendar month.

This revenue ruling provides in Table 1 the bond factor amounts for calculating the amount of bond considered satisfactory under § 42(j)(6) for dispositions of qualified low-income buildings or interests therein during the period April through June 1999.

Table 1 Rev. Rul. 99–24 Monthly Bond Factor Amounts for Dispositions Expressed As a Percentage of Total Credits													
Calendar Year Building Placed in Service or, if Section 42(f)(1) Election Was Made, the Succeeding Calendar Year													
Month of Disposition	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Apr '99	45.71	60.18	75.06	76.82	79.83	83.22	86.70	90.11	93.55	97.27	101.15	105.33	107.43
May '99	45.71	60.18	75.06	76.60	79.60	82.97	86.44	89.83	93.26	96.96	100.81	104.97	107.43
Jun '99	45.71	60.18	75.06	76.39	79.38	82.73	86.18	89.56	92.97	96.66	100.51	104.65	107.43

For a list of bond factor amounts applicable to dispositions occurring during other calendar years, see the following revenue rulings: Rev. Rul. 98–3, 1998–2 I.R.B. 4, for dispositions occurring during the calendar years 1996 and 1997; Rev. Rul. 98–13, 1998–11 I.R.B. 4, for dispositions occurring during the period January through March 1998; Rev. Rul. 98–31, 1998–25 I.R.B. 4, for dispositions occurring during the period April through June 1998; Rev. Rul. 98–45, 1998–38 I.R.B. 4, for dispositions occurring during the period July through September 1998; Rev. Rul. 99–1, 1999–2 I.R.B. 4, for dispositions occurring during the period October through December 1998; and Rev. Rul. 99–18, 1999–14 I.R.B. 3, for dispositions occurring during the period January through March 1999.

DRAFTING INFORMATION

The principal author of this revenue ruling is Gregory Doran of the Office of Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue ruling, contact Mr. Doran on (202) 622-3040 (not a toll-free call).

Section 6012.—Persons Required to Make Returns of Income

26 CFR 1.6012–5: Composite return in lieu of specified form.

For the requirements for participants in the Magnetic Media/Electronic Filing Program for Form 1040NR, see Rev. Proc. 99–25, page 24.

Section 6061.—Signing of Returns and Other Documents

26 CFR 1.6061–1: Signing of returns and other documents by individuals.

For the requirements for participants in the Magnetic Media/Electronic Filing Program for Form 1040NR, see Rev. Proc. 99–25, page 24.

Part III. Administrative, Procedural, and Miscellaneous

Renewable Electricity Production Credit, Publication of Inflation Adjustment Factor and Reference Prices for Calendar Year 1999

Notice 99-26

This notice publishes the inflation adjustment factor and reference prices for calendar year 1999 for the renewable electricity production credit under § 45(a) of the Internal Revenue Code. The 1999 inflation adjustment factor and reference prices are used in determining the availability of the credit. The 1999 inflation adjustment factor and reference prices apply to calendar year 1999 sales of kilowatt-hours of electricity produced in the United States or a possession thereof from qualified energy resources.

BACKGROUND

Section 45(a) provides that the renewable electricity production credit for any tax year is an amount equal to the product of 1.5 cents multiplied by the kilowatt-hours of specified electricity produced by the taxpayer and sold to an unrelated person during the tax year. This electricity must be produced from qualified energy resources and at a qualified facility during the 10-year period beginning on the date the facility was originally placed in service.

Section 45(b)(1) provides that the amount of the credit determined under § 45(a) is reduced by an amount that bears the same ratio to the amount of the credit as (A) the amount by which the reference price for the calendar year in which the sale occurs exceeds 8 cents bears to (B) 3 cents. Under § 45(b)(2), the 1.5 cents in § 45(a) and the 8 cents in § 45(b)(1) are each adjusted by multiplying the amount by the inflation adjustment factor for the calendar year in which the sale occurs.

Section 45(c)(1) defines qualified energy resources as wind and closed-loop biomass. Section 45(c)(3) defines a qualified facility as any facility owned by the taxpayer that originally is placed in service after December 31, 1993 (December 31, 1992, in the case of a facility using closed-loop biomass to produce electricity), and before July 1, 1999.

Section 45(d)(2)(A) requires the Secretary to determine and publish in the Federal Register each calendar year the inflation adjustment factor and the reference prices for the calendar year. The inflation adjustment factor and the reference prices for the 1999 calendar year were published in the Federal Register on May 3, 1999, (84 Fed. Reg. 23729).

Section 45(d)(2)(B) defines the inflation adjustment factor for a calendar year as the fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 1992. The term "GDP implicit price deflator" means the most recent revision of the implicit price deflator for the gross domestic product as computed and published by the Department of Commerce before March 15 of the calendar year.

Section 45(d)(2)(C) provides that the reference price is the Secretary's determination of the annual average contract price per kilowatt hour of electricity generated from the same qualified energy resource and sold in the previous year in the United States. Only contracts entered into after December 31, 1989, are taken into account.

INFLATION ADJUSTMENT FACTOR AND REFERENCE PRICES

The inflation adjustment factor for calendar year 1999 is 1.1269. The reference prices for calendar year 1998 are 4.836 cents per kilowatt-hour for facilities producing electricity from wind energy resources and 0 cents per kilowatt-hour for facilities producing electricity from closed-loop biomass energy resources. The reference price for electricity produced from closed-loop biomass, as defined in § 45(c)(2), is based on a determination under § 45(d)(2)(C) that in calendar year 1998 there were no sales of electricity generated from closed-loop biomass energy resources under contracts entered into after December 31, 1989.

PHASE-OUT CALCULATION

Because the 1999 reference prices for electricity produced from wind and closed-loop biomass energy resources do not exceed 8 cents per kilowatt hour mul-

tiplied by the inflation adjustment factor, the phaseout of the credit provided in § 45(b)(1) does not apply to electricity produced from wind or closed-loop biomass energy resources sold during calendar year 1999.

CREDIT AMOUNT

As required by § 45(b)(2), the 1.5¢ amount in § 45(a)(1) is adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1¢, such amount is rounded to the nearest multiple of 0.1¢. Under the calculation required by § 45(b)(2), the renewable electricity production credit for calendar year 1999 is 1.7¢ per kilowatt hour on the sale of electricity produced from closed-loop biomass and wind energy resources.

DRAFTING INFORMATION CONTACT

The principal author of this notice is David A. Selig of the Office of Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice contact Mr. Selig at (202) 622-3040 (not a toll-free call).

Termination of Employment for Misconduct; Request for Public Comments

Notice 99-27

SECTION I. PURPOSE

Section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998 (the "RRA") provides generally that IRS employees must be terminated from Federal employment if they violate certain rules in connection with the performance of their official duties. The statute also allows the Commissioner to mitigate the sanction of termination. This Notice requests public comments on the proper interpretation of section 1203.

SECTION II. BACKGROUND

The basic rules governing disciplinary actions against federal civilian employees

are set forth in Chapter 75 of Title 5 of the United States Code. In general, these rules permit discipline, up to and including termination of employment, to be imposed for such cause as will promote the efficiency of the federal service. Agencies generally have discretion as to whether to impose disciplinary action and as to the form and severity of the action to be imposed, based upon the facts and circumstances of the situation. Most agency decisions concerning the imposition of discipline are subject to review by parties outside the agency, *e.g.*, in arbitration or by an appeal to the Merit Systems Protection Board.

RRA section 1203 made significant changes in these general rules as applied to IRS employees. Specifically, section 1203 provides that an IRS employee must be terminated from employment if there is a final administrative or judicial determination that the employee violated any of the rules set forth in sections 1203(b)(1)–(10) in the performance of official duties. In addition, section 1203(c) of the statute provides that the Commissioner may decide to take a personnel action other than removal if certain mitigating factors are present; however, this decision may only be made by the Commissioner personally and is not subject to review in any administrative or judicial proceeding. The full text of section 1203 is attached at Appendix A.

SECTION III. INTERPRETATION OF SECTION 1203

The Internal Revenue Service requests comment with respect to the following matters under RRA section 1203:

A. Existing personnel law and procedures will be applied in interpreting section 1203, unless explicitly provided otherwise. For example, current procedural requirements of personnel law, including advance written notice, an opportunity for an oral and written reply, and a right to appeal the substance of the charges, will be provided employees who are subject to discipline under section 1203.

B. The current personnel law definition of “employee” will be applied in interpreting section 1203. Section 1203 is triggered with respect to “any employee” of the IRS. In implementing section 1203, the IRS will apply the definition of “em-

ployee” in 5 U.S.C. 2105, that is, an individual who is appointed in the civil service, engaged in the performance of a Federal function under authority of law, and subject to the supervision of an individual already appointed in the civil service while engaged in the performance of the duties of the position. As a consequence of this definition, and since section 1203 applies only to acts or omissions of an employee of the IRS, any acts or omissions that occurred prior to the individual becoming an “employee” of the IRS would not be within the scope of section 1203.

C. Acts or omissions of IRS employees committed “in the performance of the employee’s official duties” include only those acts or omissions listed under section 1203(b) that have a nexus to an employee’s position in the IRS. To establish nexus, a clear and direct relationship must be demonstrated between the act or omission of the employee that constitutes the grounds for the employee’s removal and either the employee’s ability to accomplish his or her duties satisfactorily or some other legitimate governmental interest promoting the “efficiency of the service,” as required by 5 U.S.C. 7513(a). *See, Doe v. Hampton*, 566 F.2d 265, 272 (D.C. Cir. 1977).

Example 1. While at home after duty hours, an IRS employee becomes involved in a physical argument with his neighbor. The neighbor sues the employee for assault and battery and a court finds the employee liable for civil assault and battery. Is the agency mandated to terminate the employment of the employee pursuant to section 1203?

Answer. No. Section 1203 is triggered only with respect to acts or omissions committed in the performance of the employee’s official duties. Under the facts presented here, the IRS employee’s conduct was off-duty conduct having no connection to the IRS. Therefore, the civil judgment finding the employee liable for assault and battery on his neighbor would not fall under section 1203(b)(5). Additionally, the assault and battery was not “on a taxpayer, taxpayer representative, or other employee of the IRS,” as is required by section 1203(b)(5). See F. for a discussion of the meaning of taxpayer and taxpayer representative.

Example 2. A taxpayer tells the Internal Revenue Agent who is auditing the taxpayer that the Agent is incompetent. While off duty, the Agent sees the taxpayer at a restaurant and tells him that he did not ap-

preciate the comment. The Agent pushes the taxpayer. A court finds the Agent liable for civil assault and battery. Is the agency required to terminate the employment of the employee pursuant to section 1203?

Answer. Yes. Under the facts presented, the physical altercation, while occurring off-duty, resulted from the Agent’s interaction as an IRS employee with the taxpayer. Thus, the Agent’s off duty conduct has a nexus, or a clear and direct relationship, to the efficiency of the service. Therefore, the civil judgment finding the employee liable for civil assault and battery would fall within the scope of section 1203(b)(5).

D. Acts or omissions of Internal Revenue Service employees will be subject to the discipline prescribed by section 1203 only if those acts are taken, or those omissions are made, with some degree of intent.

Some of the acts or omissions specified in section 1203 that are subject to the discipline prescribed by that section appear to be based upon standards that are found in the Internal Revenue Code (IRC). Thus, section 1203 (b)(8) mandates removal of an IRS employee whose “failure to file any return of tax required under the Internal Revenue Code ... on or before the date prescribed therefor” was “willful.” This language mirrors that found in IRC section 7203. Similarly, section 1203 (b)(9) mandates removal of an employee whose “understatement of Federal tax liability” was “willful.” This language implicates concepts found in IRC section 7201. The IRS will employ standards similar to those applicable to these IRC provisions in implementing sections 1203(b)(8) and 1203(b)(9). To support an action under either of these sections, the IRS must prove by a preponderance of the evidence that the IRS employee’s act or omission was a voluntary, intentional violation of a known legal duty.

Section 1203(b)(1) requires removal of an IRS employee who willfully fails to obtain signatures on documents authorizing the seizure of certain types of property. Section 1203(b)(7) requires removal of employees who engage in “willful” misuse of IRC section 6103 “for the purpose of concealing information from a congressional inquiry.” In order to support an action under either of these provisions, the IRS must prove by a preponderance of the evidence that the employee’s act or omission

was made with actual knowledge of the failure to comply with, or with a reckless disregard of, the requirements for obtaining approval signatures or for disclosing information in response to a congressional inquiry, as the case might be.

E. A final administrative or judicial determination pursuant to section 1203(a) is a determination concerning an individual in a proceeding in which the individual is granted full rights to participate as a party to the action or proceeding. Such a determination becomes final when:

(1) if a judicial proceeding, all appeals have been exhausted or, if no appeals are taken, the time for all appeals has expired; or

(2) if an administrative proceeding:

(i) all appeals have been exhausted, or if no appeals are taken, the time for all appeals has expired, or

(ii) a disciplinary decision is made by the deciding official at the conclusion of a process that included an advance written notice to the individual of the proposed action to be taken.

Example 1. A finding is made in an EEO case that an IRS employee has been discriminated against in violation of Title VII of the Civil Rights Act of 1964. Is the finding of discrimination a final administrative determination such that section 1203(a) would require the removal of all IRS employees whose conduct may have contributed to the finding of discrimination?

Answer. No. Equal Employment Opportunity cases are filed against the agency, and not against specific individual employees. Therefore, IRS employees, other than the complainant, are not parties to the proceeding, and consequently are not afforded the opportunity to submit evidence or to call or cross-examine witnesses. The finding in the EEOC decision concerning discrimination is not a final administrative determination within the meaning of section 1203 with respect to IRS employees whose conduct may have contributed to the finding.

However, in every case in which there is a finding of discrimination, the finding will be reviewed by the Office of the National Director, EEO and Diversity, pursuant to specific procedures established by the IRS. These procedures will require that the Office of the National Director, EEO and Diversity, determine whether to refer the matter to the appropriate office for further action. If management makes a

determination that any employee committed an act or omission within the coverage of section 1203(b), the employee will be issued advance written notice of the proposal to remove the employee from the IRS. The statutory and regulatory requirements of Title 5, United States Code, and Title 5, Part 752, Code of Federal Regulations (CFR), must be followed in terminating the employment of the employee under section 1203. Moreover, the final decision to remove the employee from the IRS is subject to appeal, such as to the Merit Systems Protection Board (MSPB). While the employee may challenge the charges, a reviewing body may not mitigate the adverse action of removal if the facts establish a violation of section 1203.

Example 2. An IRS employee files a formal complaint of discrimination, alleging that his manager has retaliated against him by giving him a low performance evaluation because of the employee's prior EEO activity. The case is settled, and a settlement agreement is signed. Is this a final administrative determination that the manager has violated section 1203(b)?

Answer. No. A settlement agreement is not a determination that discrimination has occurred. Further, the manager was not a party to the discrimination complaint process or to the settlement agreement. The parties are the agency and the employee alleging discrimination. Therefore, the analysis set forth in Example 1 is also applicable to this situation.

In addition, cases in which an allegation of discrimination is raised, but there is no finding or settlement, will be referred to an appropriate office to determine whether there should be further action.

F. "Taxpayer," "taxpayer representative," and "person" will have the following meanings:

A "taxpayer" means any person subject to any internal revenue law, and with respect to whom an act or omission is undertaken because of that person's status as a taxpayer.

A "taxpayer representative" means any person who acts in a representative capacity to a taxpayer, and with respect to whom an act or omission is undertaken because of that person's status as a representative of a taxpayer.

A "person" includes an individual, trust, estate, partnership, association, company or corporation.

Example 1. An IRS employee is stopped by a police officer for speeding. The employee tells the police officer that he will be audited if the employee receives a ticket. The police officer does not have an open, ongoing dispute with the IRS. Does the employee's conduct come within the scope of section 1203(b)(10)?

Answer. Yes. The definition of taxpayer does not require that the person have an ongoing dispute with the IRS. The police officer fits the definition of a taxpayer since the employee's conduct is directed toward the police officer *because* that officer is subject to the internal revenue laws. Additionally, the purpose of the IRS employee's conduct was to extract personal gain or benefit. Based on these facts, a nexus would also exist (see **C.** above).

Example 2. A taxpayer service representative is driving her car and sees an empty parking spot. Before the taxpayer service representative can pull into that parking space, another driver parks her car there. Unknown to the employee, the other person represents taxpayers. The employee, unable to control her anger, shoves the taxpayer representative and is eventually criminally convicted of assault and battery. Does the employee's conduct come within the ambit of section 1203(b)(5)?

Answer. No. The employee's conduct, although directed against someone who represents a taxpayer, was not directed against that individual *because* she represents a taxpayer. The employee did not know the individual represented taxpayers, and even if she had known, her conduct toward the representative was unrelated to that individual's capacity as a representative. Therefore, the employee's conduct does not constitute an assault and battery upon a taxpayer representative.

G. The false statement referred to in subsection 1203(b)(2) must be with respect to a material matter involving a taxpayer or taxpayer representative, as those terms are defined in **F.** To be material, the false statement must be one that would have a natural tendency to influence, or be capable of influencing, a decision on the matter involving a taxpayer or taxpayer representative.

Example 1. A Revenue Agent intentionally falsely states under oath that a taxpayer had shown him receipts to document a particular deduction when he had not seen any such receipts. Is this false statement within the coverage of section 1203(b)(2)?

Answer. Yes. The Revenue Agent's false sworn statement that the taxpayer

had shown him receipts to document a particular deduction would have a natural tendency to influence, or the capacity to influence, a decision on the matter involving the taxpayer or taxpayer representative. Thus, it is within the coverage of section 1203(b)(2).

Example 2. A Revenue Officer is being questioned about his use of annual leave. The Revenue Officer provides a statement to the Treasury Inspector General for Tax Administration, under oath, in which he intentionally falsely states that he was at the office all day each of the prior six Fridays. Is this false statement within the coverage of section 1203(b)(2)?

Answer. No. The Revenue Officer's false statement to the Treasury Inspector General for Tax Administration does not have a natural tendency to influence, or the capacity to influence, a decision on a matter involving a taxpayer or taxpayer representative. Therefore, it would not be within the coverage of section 1203(b)(2). However, even though the IRS would not be required to terminate the employment of the Revenue Officer pursuant to section 1203(b)(2), the IRS may discipline the Revenue Officer up to and including termination from Federal service.

H. Section 1203 applies only to acts or omissions occurring on or after July 22, 1998. This position is based on existing law regarding the retroactivity of civil statutes. *See, Taylor v. Rubin*, No. 97-2398 (W.D. LA Sept. 21, 1998). In general, where statutory provisions are substantive, in that they create new rights or impair vested rights, impose new duties, or attach new disabilities regarding past transactions, as opposed to merely procedural provisions, the rule is that the provision will not apply retroactively absent a clear congressional intent otherwise. *Landgraf v. USI Film Products*, 114 S.Ct. 1483 (1994) (holding that punitive and compensatory damages provision of the 1991 Civil Rights Act amending Title VII did not apply retroactively to a case that was pending when the statute was enacted, since there was not clear congressional intent concerning retroactivity). *See also Hughes Aircraft Co. v. U.S. Ex Rel. Schumer*, 117 S.Ct. 1871, 1876 (1997) (The Court affirmed the "time-honored" presumption against giving retroactive effect to legislation unless Congress had clearly manifested its intent

to the contrary, holding that a 1986 amendment to the *qui tam* statute which would deprive defendant of a defense, did not apply retroactively).

SECTION IV. COMMENTS

Comments are requested on the matters discussed in this notice and on any other provisions of section 1203. Comments should be submitted by June 30, 1999. Written comments may be submitted to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attention: CC:DOM:CORP:R (Notice 99-27), Room 5226, Washington, DC 20044. Submissions may be hand-delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (Notice 99-27), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at: http://www.irs.ustreas.gov/prod/tax_regs/comments.html

Comments will be available for public inspection and copying.

For further information regarding this notice, contact Lee Patton of the Office of Associate Chief Counsel (Finance & Management), General Legal Services Division, at 202-283-7900 (not a toll-free call).

APPENDIX A

SEC. 1203. TERMINATION OF EMPLOYMENT FOR MISCONDUCT

(a) **IN GENERAL.**—Subject to subsection (c), the Commissioner of Internal Revenue shall terminate the employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties. Such termination shall be a removal for cause on charges of misconduct.

(b) **ACTS OR OMISSIONS.**—The acts or omissions referred to under subsection (a) are—

(1) willful failure to obtain the required approval signatures on documents

authorizing the seizure of a taxpayer's home, personal belongings, or business assets;

(2) providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer's representative;

(3) with respect to a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, the violation of—

(A) any right under the Constitution of the United States; or

(B) any civil right established under—

(i) title VI or VII of the Civil Rights Act of 1964;

(ii) title IX of the Education Amendments of 1972;

(iii) the Age Discrimination in Employment Act of 1967;

(iv) the Age Discrimination Act of 1975;

(v) section 501 or 504 of the Rehabilitation Act of 1973; or

(vi) title I of the Americans with Disabilities Act of 1990;

(4) falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;

(5) assault or battery on a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, but only if there is a criminal conviction, or a final judgment by a court in a civil case, with respect to the assault or battery;

(6) violations of the Internal Revenue Code of 1986, Department of Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service;

(7) willful misuse of the provisions of section 6103 of the Internal Revenue Code of 1986 for the purpose of concealing information from a congressional inquiry,

(8) willful failure to file any return of tax required under the Internal Revenue Code of 1986 on or before the date prescribed therefor (including any extensions), unless such failure is due to reasonable cause and not to willful neglect,

(9) willful understatement of Federal tax liability, unless such understatement is

due to reasonable cause and not to willful neglect, and

(10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

(c) DETERMINATION OF COMMISSIONER.—

(1) IN GENERAL.—The Commissioner of Internal Revenue may take a personnel action other than termination for an act or omission under subsection (a).

(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner of Internal Revenue and may not be delegated to any other officer. The Commissioner of Internal Revenue, in his sole discretion, may establish a procedure which will be used to determine whether an individual should be referred to the Commissioner of Internal Revenue for a determination by the Commissioner under paragraph (1).

(3) NO APPEAL.—Any determination of the Commissioner of Internal Revenue under this subsection may not be appealed in any administrative or judicial proceeding.

(d) DEFINITION.—For purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity receiving Federal financial assistance or an educational program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.

interest rates used to calculate current liability for the purpose of the full funding limitation of § 412(c)(7) of the Internal Revenue Code as amended by the Omnibus Budget Reconciliation Act of 1987 and as further amended by the Uruguay Round Agreements Act, Pub. L. 103-465 (GATT).

The average yield on the 30-year Treasury Constant Maturities for April 1999 is 5.55 percent.

The following rates were determined for the plan years beginning in the month shown below.

Weighted Average Interest Rate Update

Notice 99-28

Notice 88-73 provides guidelines for determining the weighted average interest rate and the resulting permissible range of

Month	Year	Weighted Average	90% to 105% Permissible Range	90% to 110% Permissible Range
May	1999	6.07	5.46 to 6.38	5.46 to 6.68

Drafting Information

The principal author of this notice is Todd Newman of the Employee Plans Division. For further information regarding this notice, call (202) 622-6076 between 2:30 and 3:30 p.m. Eastern time (not a toll-free number). Mr. Newman's number is (202) 622-8458 (also not a toll-free number).

Equitable Relief from Joint and Several Liability

Notice 99-29

This notice extends the date for providing comments on Notice 98-61, 1998-51 I.R.B. 13 (December 21, 1998), regarding the interim procedures for taxpayers seeking equitable relief from federal tax liability under § 6015(f) or 66(c) of the Internal Revenue Code, as added by § 3201(a) of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105-206, 112 Stat. 685 (July 22, 1998) (RRA).

Written comments on these interim procedures should be submitted to the Service by June 30, 1999.

General Rules for Filing and Specifications for the Private Printing of Substitute Forms W-2 and W-3

26 CFR 601.602: Tax forms and instructions. (Also Part I, sections 6041, 6051, 6071, 6081, 6091; 1.6041-1, 1.6041-2, 31.6051-1, 31.6051-2, 31.6071(a)-1, 31.6081(a)-1, 31.6091-1.)

Rev. Proc. 99-24

PART A. GENERAL

SECTION 1. PURPOSE

.01 The purpose of this revenue procedure is to provide the general rules for filing and to state the requirements of the Internal Revenue Service (IRS) and the Social Security Administration (SSA) for reproducing paper substitutes for Form W-2, Wage and Tax Statement, and Form

W-3, Transmittal of Wage and Tax Statements, for amounts paid during the 1999 calendar year. The information reported on Forms W-2 and W-3 is required to establish tax liability for employees and their eligibility for social security and Medicare benefits.

.02 Forms W-2 and W-3 have only minor changes for 1999. Please see "Nature of Changes" (Section 2, below) and the exhibits at the end of this revenue procedure for changes to Forms W-2 and W-3.

.03 For the purpose of this revenue procedure, a substitute form is one that is not printed by the IRS. A substitute Form W-2 or W-3 MUST conform to the specifications in this revenue procedure to be acceptable to the IRS. No IRS office is authorized to allow deviations from this revenue procedure. Preparers should also refer to the separate instructions for Forms W-2 and W-3 for details on how to complete these forms. See Part C, Sec. 4.01, for information on obtaining the official IRS forms and in-

structions. See Part B, Sec. 2, for requirements for substitute forms furnished to employees.

.04 IRS has a centralized call site at the IRS Martinsburg Computing Center (IRS/MCC) to answer questions related to information returns (Forms W-2, W-3, 1099, etc.). The Call-Site phone number is (304) 263-8700 (**not a toll-free number**). The number for Telecommunication Device for the Deaf (TDD) is (304) 267-3367 (**not a toll-free number**). The hours of operation are Monday through Friday from 8:30 A.M. to 4:30 P.M. eastern time.

.05 This revenue procedure supersedes Rev. Proc. 98-33, 1998-19 I.R.B., dated May 11, 1998. (Reprinted as Publication 1141).

SEC. 2. NATURE OF CHANGES

.01 The text and exhibits were updated for tax year **1999**.

.02 Eliminated pages 2 and 3 of Form W-3 including the second copy titled "YOUR COPY".

.03 Box 13 of Form W-3 has been opened to allow third-party payers of sick pay to enter "Third-Party Sick Pay Recap" therein.

.04 Added additional information to the bottom of Form W-3. The "Purpose of Form" and "When To File" information has been added, and "Need Help?" information has been deleted and is now located in the 1999 Instructions for Forms W-2/W-3.

.05 Added reference to extended due date for electronically filed forms W-2.

.06 Various editorial changes were made.

SEC. 3. GENERAL RULES FOR FILING PAPER FORMS W-2

.01 Employers **MUST** use magnetic media or electronic for filing with the SSA if they prepare and file 250 or more 1999 Forms W-2 (Copy A). This requirement applies unless:

1. The employer can establish that filing on magnetic media or electronically will result in undue hardship, **AND**

2. The employer is granted a waiver of the requirement by the IRS.

To request a waiver of the magnetic media or electronic filing requirement, for the current tax year only, submit Form 8508,

Request for Waiver From Filing Information Returns on Magnetic Media, to:

If by Postal Service:

Internal Revenue Service
Martinsburg Computing Center
230 Murall Drive
Kearneysville, WV **25430**

Or, if by truck or air freight:

IRS - Martinsburg Computing Center
Magnetic Media Reporting
240 Murall Drive
Kearneysville, WV 25430.

Forms may also be FAXED to the IRS/MCC at (304) 264-5602.

Form 8508 may be obtained through electronic options on the Internet at <http://www.irs.ustreas.gov>, or by calling 1-800-829-3676. Form 8508 also may be obtained directly from the IRS Martinsburg Computing Center (IRS/MCC) at the above address or by calling (304) 263-8700 (not a toll-free number). The number for Telecommunication Device for the Deaf (TDD) is (304) 267-3367 (not a toll-free number). It is recommended that completed requests for waivers (Form 8508) be submitted at least 45 days before but no later than the due date of the return (see Sec. 3.06, below). The requestor will receive an approval or denial letter from IRS, but must allow at least 30 days for IRS to respond. If you have any questions concerning Form 8508, contact IRS/MCC at the address or phone number shown above. **Employers who do not comply with the magnetic media or electronic filing requirements for Form W-2 and who are not granted a waiver may be subject to certain penalties.**

Since many states and local governments accept Form W-2 data on magnetic media or electronically, savings may be obtained if magnetic media or electronic data is used for filing with both the SSA and state or local governments. In many instances, the state or local government is willing to accept the data format specifications set out in the SSA's Technical Information Bulletin (TIB) No. 4, Magnetic Media Reporting. You must contact each individual state or local taxing agency to receive approval and make arrangements to file on magnetic media (or Magnetic Media Reporting and Electronic Filing Publication Number ICN (MMREF-1)).

EMPLOYERS WHO FILE FORM W-2 INFORMATION ON MAGNETIC

MEDIA OR ELECTRONICALLY WITH THE SSA MUST NOT SEND THE SAME DATA TO THE SSA ON PAPER FORMS W-2. This would result in duplicate reporting and may subject the filer to an unnecessary contact by the IRS.

.02 TIB-4, *Magnetic Media Reporting, Submitting Annual W-2 Copy A Information to the Social Security Administration*, (SSA Pub. No. 42-007, revised **Oct., 1998**) contains the specifications and procedures for filing Form W-2 information on magnetic media or electronically with the SSA. Specifications for both tape and diskette reporting for Forms W-2 are included in the TIB-4.

.03 TIB-4 may be obtained by writing to:

Social Security Administration
OCO, DES
Attn: Employer Reporting Services Center
300 North Greene Street
Baltimore, MD 21201.

Employers may call their local SSA Employer Service Liaison Officers (ESLO) to obtain the TIB-4 (see list of Employer Service Liaison Officers' telephone numbers in the Appendix). The TIB-4 is also on the SSA Online Wage Reporting Bulletin Board System (OWRBBS). The number for the OWRBBS is (410) 966-8450 (**not a toll-free number**). Employers using magnetic media are cautioned to obtain the most recent revision of the TIB-4 *and supplements* due to possible changes in the specifications and procedures.

.04 Employers not filing on magnetic media or electronically must file a paper Copy A of Form W-2 with the SSA on either the IRS printed official form or a privately printed substitute paper form that exactly meets the specifications shown in Parts B and C.

.05 Employers may design their own statements to give to employees. This applies to employers who file with the SSA on magnetic media, electronically, or on paper. Employee statements designed by employers *must* comply with the requirements shown in Parts B and C, below.

NOTE: Copy A must *not* be filed on paper with the SSA when the same Form W-2 information is filed electronically or on magnetic media. Therefore, magnetic media or electronic filers who use the official IRS printed form or any other pre-

printed form are advised not to print Copy A to prevent duplicate information from being submitted to the SSA.

.06 Employers terminating their businesses, must provide their employees with Forms W-2 on or before the due date of the final Form 941 filed by the employer. Employers must also file Forms W-2 and W-3 with the SSA on or before the last day of the month following the due date of the final Form 941. See Rev. Proc. 96-57, 1996-2 O.B. 389, Automatic Extensions for Forms W-2, Internal Revenue Cumulative Bulletin 1996-2, page 389, dated 12/30/96, for more information.

Note: Use of a reporting agent or other third-party payroll service provider does not relieve an employer of the responsibility to ensure that Forms W-2 are sent out and filed correctly and on time.

.07 Employers who file electronic Forms W-2 for 1999 have until **March 31, 2000**. Forms W-2 for 1999, whether filed on magnetic media or paper, must be submitted to the SSA on or before **February 29, 2000**. In addition, the employee copies must be furnished to the employee on or before **February 1, 2000**. If employment ended before December 31, 1999, the employee may be furnished his/her copy any time after employment ends, but no later than **February 1, 2000**. However, if the employee requests Form W-2, you must furnish him or her the completed copies within 30 days of the request or of the final wage payment, whichever is later. This requirement is met if the form is properly addressed, mailed, and postmarked on or before the due date. Failure to timely file with the SSA or to timely provide the employee copies may subject the employer to penalties. Employers needing additional time to file Form W-2 information (paper or magnetic media) with the SSA may request an extension of time to file by submitting Form 8809, *Request for Extension of Time to File Information Returns*, to the IRS/MCC at the address (or alternative address) listed in Sec. 3.01, above. The extension request should be filed as early as possible, but must be postmarked no later than the due date of the forms (**February 29, 2000**). **DO NOT SEND FORM 8809 TO THE SSA.**

NOTE: APPROVAL OF THE EXTENSION IS NOT AUTOMATIC. Approval

or denial is based on administrative criteria and guidelines. The requestor will receive an approval or denial letter from the IRS and must allow at least 30 days from the date of the request for the IRS to respond. You do not have to wait for a response before filing your return. File your return as soon as they are ready. If you have received a response, **do not** send a copy of the letter or Form 8809 with your return. Form 8809 may be obtained using electronic options on the Internet at <http://www.irs.ustreas.gov>; by modem to IRIS (703) 321-8020; or by using the IRS Fax Forms Program (703) 368-9694, or by calling 1-800-829-3676. You can also contact IRS/MCC. (See the address and phone number in Sec. 3.01, above.)

.08 When requesting extensions of time for more than 10 employers, the IRS encourages filers to submit the request on tape, tape cartridge, 3½-inch diskette, or electronically. **Transmitters requesting an extension of time to file for more than 50 payers are required to file the extension request on magnetic media or electronically.** Transmitters who submit requests for multiple payers will receive one approval letter with an attached list of payers covered under that approval. Publication 1220, *Specifications for Filing Forms 1098, 1099, 5498, and W-2G Magnetically or Electronically*, provides information on how to file requests for extensions of time on tape, tape cartridge/quarter inch cartridge, 3½ inch diskette, or electronically.

NOTE: To file a request for extensions of time, magnetically or electronically for multiple payers, third party filers/transmitters must have an IRS Transmitter Control Code (Authorization to file information returns.)

SEC. 4. GENERAL RULES FOR FILING FORM W-3

.01 Employers submitting Form W-2 (Copy A) on *paper* to the SSA must send the Forms W-2 with a Form W-3.

.02 Form W-3 must be the same width (7 inches) as the Forms W-2 filed.

.03 Form W-3 pages 2 and 3 have been eliminated including the second **“your copy” of the form**. Separate instructions for the Form W-3 are provided in the “Instructions for Forms W-2 and W-3.”

Form W-3 is now a single cut sheet including only essential filing information. Be sure to make a copy of the complete form for your records.

.04 The bottom of Form W-3 has been redesigned. The “Need Help?” paragraph has been deleted and inserted within the “Instructions for Forms W-2 and W-3.” The “Purpose of Form” and “When To File” paragraphs have been added to restate the purpose of the Form W-3 which can also be found within the “Instructions for Forms W-2 and W-3,” while also providing due date on the actual form itself.

.05 Form W-3 should be used only to transmit paper Forms W-2 (Copy A). Magnetic media or electronic filers do not file Form W-3. Employers submitting magnetic media using the TIB-4 format must transmit Form W-2 data with Form 6559, *Transmitter Report and Summary of Magnetic Media*, (and Form 6559-A, *Continuation Sheet for Form 6559*, if necessary). These forms may be obtained by calling either your SSA ESLO (see listing in Appendix) or the IRS at 1-800-829-3676. Employers submitting W-2 information electronically using OWRRB need not submit a Form 6559.

PART B. REQUIREMENTS FOR FILING PAPER SUBSTITUTES

SEC. 1. REQUIREMENTS FOR SUBSTITUTE “PRIVATELY PRINTED” FORMS SUBMITTED TO THE SSA (FORM W-2, COPY A, AND FORM W-3)

.01 Employers may file privately printed substitute Forms W-2 and W-3 with the SSA. The substitute form must be an exact replica of the IRS printed form (or official reproduction proof) with respect to layout and contents because it will be read by machine. The Government Printing Office (GPO) symbol must be deleted (see Sec. 1.15, below). The specifications and allowable tolerances for Copy A of substitute Forms W-2 are provided later in this revenue procedure. See Exhibit A for Form W-2 specifications. The specifications for Forms W-3 are provided in Exhibit B.

.02 Paper used for substitute Forms W-2, Copy A, and Form W-3 (cut sheets and continuous pinfeed forms) that are to be filed with the SSA must be white 100% bleached chemical wood, **18-20 pound**

paper only, optical character recognition (OCR) bond produced in accordance with the specifications shown as follows:

Paper Requirements

- 1 Acidity: pH value, average, not less than 4.5
- 2 Basis Weight 17 × 22 500 cut sheets 18-20
Metric equivalent grams per sq. meter 60-75
A tolerance of +5 pct. is allowed.
- 3 Stiffness: Average, each direction, not less than Gurley milligrams —
Cross direction 50
Machine direction 80
- 4 Tearing Strength: Average, each direction, not less than—Grams 40
- 5 Opacity: Average, not less than—Percent 82
- 6 Reflectivity: Average not less than—percent 68
- 7 Thickness:
Average inch 0.0038
Metric equivalent mm 0.097
A tolerance of +0.0005 inch (0.0127mm) is allowed.
Paper can not vary more than 0.0004 inch (0.012mm) from one edge to the other.
- 8 Porosity: Average, not less than—seconds 10
- 9 Finish (smoothness):
Average, each side —
seconds 20-55
(For information only), the Sheffield equivalent unit 170-d100
- 10 Dirt: Average, each side, not to exceed—
Parts per million 8

NOTE: Reclaimed fiber in any percentage is permitted, provided the requirements of this standard are met. **DO NOT USE RECYCLED PAPER.**

.03 All printing for Copy A of Forms W-2 and Form W-3 will be in red OCR drop-out ink, except as specified below. The following must be printed in non-reflective black ink:

1. Identifying control number '22222' (Exhibit C) at the top of Form W-2.
2. **Tax year at the bottom** of the Form W-2 (see Exhibit C).

3. Identifying control number '33333' (Exhibit D) at the top of Form W-3.

4. Tax year at the bottom of Form W-3 (Exhibit D).

5. Form identification 'W-3' at the bottom of Form W-3 (Exhibit D).

All other printing on Forms W-2, Copy A, and W-3 must be in red OCR drop-out Flint Ink J-6983 (formerly Sinclair and Valentine) or an exact match. This is the same ink that is used for Copy A of the Form 1099 series (see Pub. #1179). The use of this is required for **1999** Forms W-3 and W-2 (Copy A.)

NOTE: Printing in any other red OCR drop-out ink must be cleared by contacting Banc-Tech Corp., Attn: Forms Designer & Analysis, 27011 East Grauwylar, Bldg #1, Mail-stop #69, Irving, TX 75061 (972-579-6088).

.04 Type must be substantially identical in size and shape with corresponding type on the official form. The form identifying number **MUST** be printed in non-reflective black ink using an OCR-A font; 10 characters per inch.

1. On Form W-3 and Copy A of Forms W-2, all the perimeter rules must be 1-point (0.014 inch), while all other rules must be one-half point (0.007 inch).

2. Vertical rules must be parallel to the left edge of the form; horizontal rules parallel to the top edge.

.05 Two official Forms W-2 (Copy A), or one official Form W-3 is contained on a single page that is 7 inches wide (exclusive of any snap-stubs) by 11 inches deep. The form identifying control number for the official forms (7 inches wide) is '22222' (5 digits) for Form W-2 and '33333' (5 digits) for Form W-3. The top margin for **1999** Forms W-3 and W-2, Copy A is .375 inch (3/8 inch). The right margin must be .15 inch and the left margin .35 inch (plus or minus .0313 inch). The margins are unchanged from **1998**. Margins must be free of all printing. No printing should appear anywhere near the Form ID control number (33333, or 22222). For Forms W-2, Copy A, the combination width of Box a, 'Control number,' and the box containing the form identifying number (22222) must always be 2.0 inches. For Form W-3, the combined width of these boxes must always be 2.2 inches.

NOTE: All form identifying numbers must be printed in non-reflective black

ink, using OCR-A font, printed 10 characters per inch.

.06 The depth of the individual scannable image on a page must be the same as that on the IRS printed forms. For Form W-2, the depth is 4.92 inches (see Exhibit A). The scannable image depth of the Form W-3 on a page must be 4.47 inches (see Exhibit B).

.07 The words "Do Not Cut, Staple, or Separate Forms on This Page" must be printed twice in red OCR drop-out ink between the two Forms W-2 on Copy A only (see Exhibit A). Perforations are required on all copies (except Copy A) to enable the separation of individual forms. Continuous pinfeed Copy A forms must be separated at the page perforation into individual 11" deep pages before submission to the SSA. The pinfeed strips must also be removed. However, the two W-2 documents contained on the 11" deep page *must not* be separated.

.08 The words "**For Privacy Act and Paperwork Reduction Act Notice, see separate instructions,**" *must* be printed in red OCR drop-out ink on Forms W-2, Copy A (see Exhibit A for format and location). **The Forms W-2 and W-3 instructions contain the Privacy Act Notification previously shown on the Form W-3.**

.09 The Office of Management and Budget (OMB) Number *must* be printed on *each* ply of Forms W-2 and on W-3 (see Exhibits A and B for format and location).

.10 The instructions on the official Form W-3, *must be* printed in their entirety on all substitute Forms W-3 (see Exhibit B).

Household employers filing Forms W-2 for household employees should send the forms to the same address listed in the instructions.

Note: Household employers, even those with only one household employee, must file a Form W-3 with Form W-2. On Form W-3 mark the "Hshld Emp." box in Box b.

.11 *Privately printed continuous substitute Forms W-2, Copy A, must be perforated at each 11" page depth. No perforations are allowed between the individual forms (5½ inch Forms W-2) on a single copy page of Copy A. Continuous pinfeed Copy A forms must be*

separated at the page perforation prior to submitting them to the SSA. Two Copy A forms are contained on one page. The two copies must remain together on the page. Only the pages are to be separated (burst). Perforations are required between all the other *individual* copies on a page (Copies 1, B, C, 2, and D) included in the set.

.12 The back of a substitute Forms W-2, Copy A, and Form W-3 must be free of all printing.

.13 Spot carbons are *NOT permitted* for Copy A of Forms W-2 or for Form W-3. Interleaved carbon should be black and must be of good quality to assure legibility of information on all copies and to preclude smudging.

.14 Chemical transfer paper is permitted for Form W-2, Copy A, and Form W-3 only if the following standards are met:

1. Only *chemically backed* paper is acceptable for Copy A.

2. Carbon coated forms *are not* permitted. Front and back chemically treated paper cannot be processed properly by machine.

3. Chemically transferred images must be black in color.

.15 The GPO symbol must not be placed on substitute Copy A of Forms W-2.

.16 The Catalog Number, shown on the 1999 Form W-2 as "Cat. No. **10134D**", and the Catalog Number shown on the 1999 Form W-3 as "Cat. No. **10159Y**", are used for IRS distribution purposes and should not be printed on substitute forms.

SEC. 2. REQUIREMENTS FOR SUBSTITUTE FORMS FURNISHED TO EMPLOYEES (COPIES B, C, AND 2 OF FORMS W-2)

.01 All employers (including those who file on magnetic media or electronically and do not file a paper Copy A) must furnish employees with at least two copies of the Forms W-2 (three or more for employees required to file a state, city, or local income tax return). The dimensions of these copies (Copies B, C, and 2), but not Copy A, may be expanded from the dimensions of the official form to allow space for conveying additional information, including additional entries required for Boxes 13 or 14, such as withholding from pay for health insurance, union dues, bonds, or charity. The re-

quirement that a maximum of **three items** are permitted in Box 13 of Form W-2 applies **only** to the paper **Copy A** that is filed with the SSA. As long as sufficient space is provided on the substitute employee copies, as many items as needed may be placed in Box 13 or Box 14. Also, on these copies (Copies B, C, and 2), the size of these boxes may be adjusted. (However, see the minimum sizes for certain boxes, below). This may permit the employer to eliminate other statements or notices that would otherwise be furnished to employees.

1. The MAXIMUM allowable dimensions for employee copies of Forms W-2 are:

(a) depth should be no more than 6.5 inches;

(b) width should be no more than 8.5 inches.

2. The MINIMUM allowable dimensions for employee copies of Forms W-2 are:

(a) 2.67 inches deep by 5.0 inches wide.

(b) horizontal or vertical format is permitted.

NOTE: These minimum and maximum size specifications are for **1999** only and may change for future years. The maximum width of 8.5 inches is for employee copies of Form W-2 only. The width of the paper Copy A, submitted to the SSA, is specified in Part B, section 1.05 above.

.02 The paper for all copies must be white. The substitute Copy B (or its equal), which employees are instructed to attach to their Federal income tax return, must be at least 12 pound paper (basis 17 × 22-500), while the other copies furnished the employee must be at least 9-pound paper (basis 17 × 22-500).

.03 Interleaved carbon and chemical transfer paper for employee copies must meet the following standards:

1. All copies must be **CLEARLY LEGIBLE**;

2. All copies must have the capability to be photocopied; and

3. Fading must not be of such a degree as to preclude legibility and the ability to photocopy.

In general, black chemical transfer inks are preferred; other colors are permitted only if the above standards are met. "Spot carbons" are **NOT** permitted (See Part B, Sec. 1.14, above, for standards for chemical transfer paper for Copy A.)

.04 The following requirements govern the private printing of employee copies of Forms W-2. All substitutes must be a form, that contains boxes, box numbers, and box titles that, when applicable, match the IRS printed form. **The employee copy of Forms W-2 (Copy C) must contain the note "This information is being furnished to the Internal Revenue Service. If you are required to file a tax return, a negligence penalty or other sanction may be imposed on you if this income is taxable and you fail to report it."** The placement, numbering, and size of certain boxes (the "core" information) is specified as follows:

1. The items and box numbers that constitute the core data are:

Box 1 – Wages, tips, other compensation

Box 2 – Federal income tax withheld

Box 3 – Social security wages/Railroad retirement compensation,

Box 4 – Social security tax withheld/Railroad retirement tax withheld,

Box 5 – Medicare wages and tips/Railroad retirement tips, and

Box 6 – Medicare tax withheld/Railroad retirement tax withheld.

NOTE: Railroad employees may not be subject to social security coverage but are subject to Railroad Retirement Tax Act (RRTA) Tier 1 and Tier 2 coverage. Railroad employers may make the above modifications to Forms W-2 but only for substitute Forms W-2 furnished to employees and *not* for any Copy A forms to be filed with the SSA.

The "core" boxes **must** be printed in the exact order on each line as on the IRS printed form (see the Exhibits at the end of this revenue procedure). Boxes 1 and 2 must be next to each other, with boxes 3 and 4 below on the next line, and boxes 5 and 6 on the line below Boxes 3 and 4.

2. The block of core data (boxes 1 through 6) must be placed in the upper right of the form. Substitute employee copies of Form W-2, that are printed using a vertical format with dimensions smaller than the IRS printed form may have the core data entirely on the top of the form (see Exhibit F). In no instance will boxes or other information be permitted to the right of the core data. Standard margins or a small amount of other blank space may appear to the top or right of

this data. The form title, number, or copy (Copy B, C, or 2) may be at the top of the form. Also, a reversed or blocked-out area to accommodate a postal permit number or other postal considerations is permitted at the upper right of the form.

3. Boxes 1 through 6 each must be a minimum of 1 3/8 inches wide and 1/4 inch deep.

4. Other required boxes:

- Employer identification number (EIN),
- Employer's name, address, and ZIP code,
- Employee's social security number, and
- Employee's name, address, and ZIP code.

These items are required to be present on the form and must be in boxes similar to those on the IRS printed form. However, they may be placed in any location, other than the top or upper right. The lettering system used on the IRS printed form ("a" through "f") need not be used. The employer identification number may be included in the box for the employer's name and address. If this is done, a separate box for the EIN is not required. The 'Control number' box (box "a" on the IRS printed form) is not required.

5. The Tax Year (1999) **MUST** be clearly printed (**in non-reflective black ink**) on all copies of substitute Forms W-2. It is recommended (but not required) that this information be located to the right of the form title on the lower left of the Form W-2. **The use of 24 pt OCR-A font is recommended but not required.**

6. If applicable, "Social security tips" **MUST** be shown separately from "Social security wages." A separate box is not required unless social security tips are to be reported. Boxes 1 and 2 on Copy B are required to be outlined in bold 2-point rule (see Exhibit E) or highlighted in some manner to distinguish these boxes.

7. If a box for "Advance EIC" (Advance Earned Income Credit) payment (box 9) is present, the box must be outlined in bold 2-point rule or highlighted in some manner to distinguish this box. However, if no amounts are paid for "Advance EIC", this box is not required and may be omitted by printers. Do not use box 9 for any other purpose than reporting Advance EIC payments.

8. If "Allocated tips" (box 8) are being reported for the individual employee (or class of employees that are being provided Forms W-2), it is recommended (but not required) that this box also be outlined in bold 2-point rule or highlighted on Copy B. However, if allocated tips are not being reported, this box may be omitted by printers.

9. If Form W-2 contains additional data concerning payroll deductions (e.g., saving bonds withholding, retirement withholding, or payroll savings), there should be a special highlighting of the areas pertaining to Federal income tax withheld; wages, tips, and other compensation; or Advance EIC payments that are related to those items.

10. Employers who are required to report or withhold state income tax information are required to include the following boxes on substitute Forms W-2:

Box 16 – State and Employer's state identification number,

Box 17 – State wages, tips, etc., and

Box 18 – State income tax withheld.

11. Employers who are required to report or withhold local income tax information are required to include the following boxes on substitute Forms W-2:

Box 19 – Locality name

Box 20 – Local wages, tips, etc., and

Box 21 – Local income tax.

12. If state or local tax information is required, this information is also considered "core data." The state and local information **MUST** be placed at the bottom of the form. See the exhibits at the end of this revenue procedure.

13. Other boxes on the IRS printed form (boxes 7 through 15) need not appear on substitute Forms W-2 provided to employees **unless** an employer has that item of information to report to an employee. For example, if an employee did not have social security tips (box 7), Allocated tips (box 8), or Advance EIC payment (box 9), the form could be printed without those boxes. However, if the employer had provided amounts for dependent care benefits, those amounts would be required to be reported separately and shown in a box labeled "Box 10, Dependent care benefits," as on the IRS printed form and the exhibits in this revenue procedure.

14. Employers may provide multiple entries in box 13, but each entry must use

the same code as assigned by the IRS for that type of item. (See the Reference Guide for Box 13 Codes in the 1999 Instructions for Forms W-2 and W-3. For example, employers reporting elective deferrals to a section 401(k) plan must enter in box 13 "D" and not "A", even though it is the first or only item to go in this box. Use the codes shown with the dollar amount. On Copy A, Form W-2, do not enter more than three codes in this box. If more than three items need to be reported in box 13, use a separate Form W-2 to report the additional items (see **Multiple forms** in the 1999 Instructions for Forms W-2 and W-3.) However, employers may enter more than three codes in box 13 of Copies 1, 2, B, C, and D of Form W-2. Do not report in box 13 any items that are not listed as **Codes A-T** in the Form W-2 instructions. Do not report the same Federal tax data to the SSA on more than one Copy A, Form W-2.

15. For codes D,E,F,G,H, and S, if any elective deferrals, salary reduction amounts, or non-elective contributions to a section 457(b) plan during the year are make-up amounts under the **Uniformed Service Employment and Reemployment Rights Act of 1994 (USERRA)** for a prior year, you must enter prior year contributions separately. You must enter the code, the year, and the amount. For example, elective deferrals to a section 401(k) plan are reported in box 13 as follows: D 1997 2250.00, D 1998 1250.00. The 1999 contribution does not require a year designation, enter it as D 7000.00.

16. If you are a military employer and provide your employee with basic housing, subsistence allowances, and combat zone compensation, report the amount in box 13, Form W-2, using code **Q**.

17. Employers contributions to an employees' Medical Savings Account's (MSA), must be reported in box 13, Form W-2, using code **R**.

18. An employee elective contribution to a salary reduction **SIMPLE** retirement account must be included in box 13, Form W-2, using code **S**. However, if the amount is contributed to a **SIMPLE** retirement that is part of a section 401(k) arrangement, that amount must be reported in box 13, Form W-2, using code **D**.

19. Amounts paid or expenses incurred by an employer to or for an employee for

qualified adoption expenses must be reported in box 13, Form W-2, using code **T**.

20. Form W-3 box 13 has been opened to allow third-party payers of sick pay to enter "Third-Party Sick Pay Recap". This will help identify and expedite processing of those forms.

21. Employers may use box 14 for any other information they wish to give their employee. Each item must be labeled. Examples are union dues, health insurance premiums deducted, nontaxable income, voluntary after-tax contributions, or educational assistance payments.

22. If you are reporting prior year payments contributions under USERRA (see item 15 above), you may report box 14 make-up amounts for non-elective employer contributions, voluntary after-tax contributions, required employee contributions, and employer matching contributions. Report such amounts separately for each year.

.05 Substitute form for employees (Copies B, C, and 2 of Forms W-2) must meet the following requirements:

1. All copies of Form W-2 must clearly show the form number, the form title, and the tax year prominently displayed in one area of the form. The title of Form W-2 is "Wage and Tax Statement." It is recommended (but not required) that this be located on the bottom left of Form W-2. The reference to the Department of the Treasury - Internal Revenue Service must be on all copies of Form W-2 provided to the employee. It is recommended (but not required) that this be located on the bottom right of Form W-2.

2. If the substitute forms are *not labeled* as to the disposition of the copies, then written notification must be provided to each employee as specified below:

(a) The first copy of the form (Copy B) is filed with the employee's Federal tax return.

(b) The second copy of the form (Copy C) is for the employee's records.

(c) If applicable, the third copy (Copy 2) of the form is filed with the employee's state, city, or local income tax return.

3. If the substitute forms are *labeled*, the forms must contain the applicable description:

"Copy B, To Be Filed With Employee's Federal Tax Return," and "Copy C, for employee's records." It is recommended

(but not required) that this be located on the lower left of Form W-2. The designation "Form W-2," is recommended (but not required) to be located on the lower left of Form W-2. "Department of the Treasury - Internal Revenue Service" is recommended (but not required) that this be located on the lower right of Form W-2.

4. Instructions similar to those contained on the back of Copies B and C of the official Form W-2 must be provided to each employee. Employers may modify or delete certain information in these instructions (such as modification for employees of railroads to cover Railroad Retirement Tier 1 and Tier 2 compensation and taxes). Employers are allowed to delete instructions that do not apply to the employee. For example, if none of the employees have dependent care benefits (box 10), the employer may delete the instructions for that item. Also, if an employer will only be reporting amounts for a 401(k) plan in box 13, those instructions may be modified to cover only section 401(k) contributions.

5. You must notify employees who have no income tax withheld that they may be able to claim a tax refund because of the earned income credit (EIC). You will meet this notification requirement if you issue the official IRS Form W-2 with the EIC notice on the back of the employee's copy (Copy B), or a substitute Form W-2 with the same statement. You may also meet the requirement by providing a substitute Form W-2 without the EIC notice and Notice 797, Possible Federal Tax Refund Due to the Earned Income Credit (EIC), or your own statement that contains the same wording. You also may change the font on Employee Copy C (back page only) so that the EIC notification and W-2 instructions may fit entirely on the back of Copy C. For more information about notification requirements, see **Notice 1015** (formerly Pub. 1325), *Employers Have You Told Your Employees About the Earned Income Credit (EIC)?*.

NOTE: Printers are cautioned that the rules set forth here (Part B, Sec. 2) apply to employee copies (Copies B, C, etc.) only. Paper filers who send Copy A of Form W-2 to the SSA *must* follow the requirements in Part B, Sec. 3, below for those paper submissions.

SEC. 3. GENERAL RULES FOR FILING "PAPER SUBSTITUTES" FOR FORMS W-2 AND W-3

.01 Paper substitutes that conform totally to the specifications contained in this revenue procedure may be privately printed without the prior approval of the IRS. **Please do not mail your paper Forms W-2 or W-3 tax year submissions to the IRS address below. The address below is for correspondence, or questions relating to specifications in this publication. Penalties may be assessed for not complying with the form specifications set forth in this publication.** SUBSTITUTE FORMS THAT DO NOT CONFORM TOTALLY TO THESE SPECIFICATIONS ARE NOT ACCEPTABLE. This applies to both paper substitutes that are filed with the SSA and those that are given to employees. **Forms cannot be submitted to the IRS or the SSA for specific approval.** However, if you are uncertain of any specification set forth herein and want that specification clarified, you may submit a letter citing the specification in question, your interpretation of that specification, and an example of how the form would appear if produced using your understanding of the specification. Any questions pertaining to Copies B, C, and 2 of Forms W-2 should be sent to:

Internal Revenue Service
ATTN: Substitute Form W-2
Coordinator
OP:C:A:C:I
5000 Ellin Rd.
Lanham, MD 20706

Any questions pertaining to Copy A, Form W-2, and Form W-3 should be forwarded to:

Social Security Administration
Data Operations Center
1150 E. Mountain Drive
Attn: Program Analyst Office, Room 449
Wilkes-Barre, PA 18702-7997

NOTE: You should allow at least 30 days for the IRS or the SSA to respond.

.02 Forms W-2 and W-3 are subject to annual review and possible change. Employers are cautioned against overstocking supplies of privately printed substitutes.

.03 Copies of the current year's IRS printed Forms W-2 and W-3 and the in-

structions for these forms may be obtained using electronic options on the Internet at <http://www.irs.ustreas.gov>, or from most IRS offices, or by calling 1-800-829-3676. The IRS provides only cut-sheet sets.

.04 Substitute Forms W-2 and W-3 transmitted to the SSA should contain only data that is required by the Form W-2 or Form W-3, the Forms W-2 and W-3 instructions, and this revenue procedure.

.05 Substitute Forms W-2, Copy A, and W-3 are machine imaged and scanned by the SSA, therefore, these forms must meet the same specifications as Forms W-2 and W-3 produced by the IRS. The vertical and horizontal spacing for all Federal payment and data boxes on Form W-2 must be in compliance with the specifications contained herein.

.06 The ballot boxes on Forms W-2, Copy A (box 15), must be point-1 boxes (See Exhibit A), and the "Void box" is point-14. The spacing on each side of the "Void box" is point-8 (See Exhibit A). The W-3 box b must be point-11 boxes (See Exhibit B). The spacing and box sizes have been corrected this year. Please insure you adhere to the dimensions provided in the exhibits.

NOTE: If a box is marked, more than 50 percent of the applicable ballot box must be covered by an "X".

.07 Copy A of Forms W-2 and Form W-3 must have the form producer's EIN entered to the left of "Department of Treasury."

PART C. ADDITIONAL INSTRUCTIONS

SEC. 1. INSTRUCTIONS FOR FORMS PRINTERS

.01 Except as provided below, if magnetic media/electronic is not used for filing with the SSA, the substitute copies of Forms W-2 assembly should be arranged in the same order as the IRS printed Forms W-2. Copy A should be first, followed sequentially by perforated sets (Copies 1, B, C, 2, and D). The substitute form to be filed by the employer with the SSA must carry the designation "Copy A."

NOTE: Magnetic media/electronic filers do not submit Copy A of Form W-2 or Form W-3. TIB-4 specifications require Form 6559 transmittal for magnetic media filers of Form W-2 data.

1. Privately printed substitute forms are not required to contain a copy to be retained by employers (Copy D). However, employers must be prepared to verify or duplicate this information if it is requested by the IRS or the SSA.

Paper filers that do not keep Copy D should be able to generate a facsimile of Copy A in case of loss.

2. Except as provided in the arrangement of the official assemblies, additional copies that may be prepared by employers shall not be placed ahead of the copy "For EMPLOYEE'S RECORDS," on Form W-2 (Copy C).

3. Instructions similar to those contained on the back of **Copies B and C** of the official form **MUST** be provided to each employee. These instructions may be printed on the back of the substitute Copies B and C or may be provided to employees on a separate statement. Do not print these instructions on the back of Copies 1 or 2 that is to be filed with the employee's state or local income tax return.

.02 All privately printed Forms W-3 and Forms W-2 (Copy A), must have the tax year, form number, and form title printed on the bottom face of each form using identical type to that of the official format. **The tax year must be printed in non-reflective black ink using 24 pt OCR-A font (copy A), of Forms W-2, and Forms W-3. The form title, e.g., "Wage and Tax Statement" must be printed in red OCR-A drop-out ink on Form W-2, Copy A, and Form W-3. The form identifying control number of Forms W-2 and Form W-3, must be printed in non-reflective black ink, using OCRA-font, printed 10 characters per inch. The word "Form" on the W-2 and W-3 must be printed in red OCR-A drop-out ink.**

.03 The substitute Form W-2, Copy B, which employees attach to their Federal income tax return, must be printed on at least 12-pound paper (basis 17 × 22-500) while the other copies furnished to employee's should be at least 9-pound paper (basis 17 × 22-500).

.04 Employee copies of Forms W-2 (Copies B, C, etc.), including those that are printed on a single sheet of paper, **MUST** be produced so as to be easily separated by the employee. Perforations between the individual copies that are

printed on a single sheet of paper satisfy this requirement.

.05 The Form W-2, Copy A, and the OCR bond Form W-3 that are filed with the SSA must have no printing on the reverse side.

.06 Instructions similar to those provided as part of the official form must be provided as part of any substitute Form W-2 or W-3.

SEC. 2. INSTRUCTIONS FOR EMPLOYERS

.01 Only originals or ribbon copies of Copy A (Forms W-2) and Form W-3 may be filed with the SSA. **CARBON COPIES AND PHOTOCOPIES ARE NOT ACCEPTABLE.**

.02 Employers should type or machine print entries on forms whenever possible and provide good quality data entries by using a high quality type face, inserting data in the middle of blocks that are well separated from other printing and guidelines, and taking any other measures that will guarantee clear, sharp images. **THE PRINT CHARACTER SIZE MUST BE NO SMALLER THAN 12 CHARACTERS PER INCH.** Omit dollar signs but include decimal points for all cents amounts. The employer must provide a machine scannable Form W-2, Copy A. **The employer must refrain from printing any data in the top margin of the forms. UNLESS ABSOLUTELY NECESSARY, DO NOT PRINT ANYTHING IN THE CONTROL NUMBER BOX ON THE FORM W-2 OR W-3.** The employer must also provide payee copies (Copies B, C, and 2) that are legible and capable of being photocopied (by the employee). When Forms W-2 or W-3 are typed, black ink must be used with no script type, inverted font, italics or dual case alpha characters used.

.03 The Employer Identification Number (EIN) may be entered in the Employer's name and address box on Copy A of Forms W-2 (box c on the IRS printed Form W-2). If this is done, the EIN need not be entered in the box provided for the EIN (box b on the IRS printed Form W-2). The EIN must be entered in box e of the Form W-3. **Note: The EIN entered on Form W-3 in box e must be the same EIN entered on Forms W-2 in box b, and on Forms 941, 943, CT-1, Schedule**

H (Form 1040), or any other forms filed with the IRS.

.04 The employer's name, address, and EIN may be preprinted.

.05 The optional employer's state number may be pre-printed in the employer's name, address, and ZIP code box. If this is done, the 'employer's state I.D. number' section in box 16 of Forms W-2 need not be completed as long as the applicable state taxing authority does not object. **Please check with the appropriate state taxing authority before doing this.**

.06 Generally, an agent that has an approved Form(s) 2678, Employer Appointment of Agent, should enter its name as the employer in box c of Form W-2, and file one Form W-2. However, if the agent is acting as an agent for two or more employers, or is an employer and is acting as an agent for another employer, and pays social security wages in excess of the wage base to an individual, special reporting for payments to that individual is needed. The agent should file separate Forms W-2 reflecting the wages paid by each employer. Box "c" of Forms W-2 should include the name of the agent, agent for (name of employer), and address of agent. Each Form W-2 should reflect the EIN of the agent in box b. In addition the employer's EIN should be shown in box h of Form W-3.

.07 The preparation and filing instructions for Forms W-2 and W-3 are included in the 1999 Instructions for Forms W-2 and W-3.

.08 To avoid confusion and questions by employees, employers are encouraged to delete the following items from the employee copies of Forms W-2 that are provided to employees:

- 1 Form identifying number (e.g., 22222),
- 2 The word "void" and associated box, and

3 Any other captions or box number that would not be of any informational use to employees (unless otherwise required).

.09 Employers should use the IRS supplied label when filing Form W-3 with the SSA. The label should be placed inside the brackets printed in boxes e, f, and g.

SEC. 3. OFFICE OF MANAGEMENT AND BUDGET (OMB) REQUIREMENTS FOR SUBSTITUTE FORMS

.01 The Paperwork Reduction Act requires: (1) OMB approval of IRS tax forms, (2) that each form (all copies) show the OMB approval number and, when appropriate, the form's expiration date, and (3) that the form (or its instructions) state why the IRS is collecting the information, how we will use it and whether it must be given to us. The official IRS form (or instructions) will contain this information.

.02 As it applies to substitute IRS forms, this means:

1. All substitute forms (all copies) *must* show the OMB number as it appears on the official IRS printed form (see Exhibits A and B).

2. The OMB number must be in one of the following formats:

OMB No. 1545-0008 (preferred),
or

OMB # 1545-0008

3. You must inform the users of your substitute forms of the reasons for IRS collection, use, and requirements, as stated in the instructions for the official IRS form.

Sec. 4. FORMS and PUBLICATIONS

.01 Electronic access to IRS tax forms, instructions, publications, and other tax data is available through the following:

Modem: IRIS at FedWorld (703) 321-8020

Technical questions regarding FedWorld can be directed to the FedWorld help desk 24 hours a day at (703) 487-4608.

Internet: Telnet - iris.irs.ustreas.gov

FTP - ftp.irs.ustreas.gov

<http://ftp.fedworld.gov/pub/irs-irbs/irb99-21.pdf>

WWW - <http://www.irs.ustreas.gov>

Fax Forms: (703) 368-9694

.02 Over 100 of the most requested forms and instructions may be obtained via your fax machine. Just call (703)368-9694 from the telephone connected to your fax machine.

.03 A CD-ROM containing over 2,000 tax forms, instructions, and publications may be purchased from the Government Printing Office (GPO), Superintendent of Documents. Current tax year materials, and tax year forms for each year beginning with 1991 and publications beginning with 1994, are included on the disc. Please be advised when ordering via CD-ROM, Copy A cannot be used to file with the SSA. Copy A must be in red dropout ink to be acceptable to the SSA. To order the CD-ROM, call Superintendent of Documents at (202) 512-1800 (select Option #1), or by computer through GPO's Internet Web Site (http://www.access.gpo.gov/su_docs).

.04 A list of the Social Security Administrations ESLO Coordinators is included in the Appendix.

Sec. 5 EFFECT ON OTHER REVENUE PROCEDURES

.01 Rev. Procs. 98-33, 1998-19, dated May 11, 1998 (Reprinted as Publication 1141, Revised 4-98), is superseded.

Exhibit A Form W-2

a Control number 22222		Void <input type="checkbox"/>		For Official Use Only OMB No. 1545-0008	
b Employer identification number		1 Wages, tips, other compensation		2 Federal income tax withheld	
c Employer's name, address, and ZIP code		3 Social security wages		4 Social security tax withheld	
		5 Medicare wages and tips		6 Medicare tax withheld	
		7 Social security tips		8 Allocated tips	
d Employee's social security number		9 Advance EIC payment		10 Dependent care benefits	
e Employee's name (first, middle initial, last)		11 Nonqualified plans		12 Benefits included in box 1	
		13 See instrs. for box 13		14 Other	
f Employee's address and ZIP code		15 Statutory employee <input type="checkbox"/>		Deceased <input type="checkbox"/>	
		Pension plan <input type="checkbox"/>		Legal rep. <input type="checkbox"/>	
		Deferred compensation <input type="checkbox"/>			
16 State	Employer's state I.D. no.	17 State wages, tips, etc.	18 State income tax	19 Locality name	20 Local wages, tips, etc.
					21 Local income tax

Form **W-2 Wage and Tax Statement** 1999

Department of the Treasury—Internal Revenue Service

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

Copy A For Social Security Administration—Send this entire page with Form W-3 to the Social Security Administration; photocopies are **not** acceptable.

Cat. No. 10134D 11"

Do NOT Cut, Staple, or Separate Forms on This Page — Do NOT Cut, Staple, or Separate Forms on This Page

a Control number		Void <input type="checkbox"/>		For Official Use Only OMB No. 1545-0008	
b Employer identification number		1 Wages, tips, other compensation		2 Federal income tax withheld	
c Employer's name, address, and ZIP code		3 Social security wages		4 Social security tax withheld	
		5 Medicare wages and tips		6 Medicare tax withheld	
		7 Social security tips		8 Allocated tips	
d Employee's social security number		9 Advance EIC payment		10 Dependent care benefits	
e Employee's name (first, middle initial, last)		11 Nonqualified plans		12 Benefits included in box 1	
		13 See instrs. for box 13		14 Other	
f Employee's address and ZIP code		15 Statutory employee <input type="checkbox"/>		Deceased <input type="checkbox"/>	
		Pension plan <input type="checkbox"/>		Legal rep. <input type="checkbox"/>	
		Deferred compensation <input type="checkbox"/>			
16 State	Employer's state I.D. no.	17 State wages, tips, etc.	18 State income tax	19 Locality name	20 Local wages, tips, etc.
					21 Local income tax

Form **W-2 Wage and Tax Statement** 1999

Department of the Treasury—Internal Revenue Service

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

Copy A For Social Security Administration—Send this entire page with Form W-3 to the Social Security Administration; photocopies are **not** acceptable.

Cat. No. 10134D

Exhibit B Form W-3

DO NOT STAPLE

a Control number 33333		For Official Use Only OMB No. 1545-0008	
b Kind of Payer 1.11" 941 1.11" Military 1.11" 943 1.11" 1.11" Hshld. 1.11" Medicare CT-1 1.39" emp. 1.39" govt. emp.		1 Wages, tips, other compensation	2 Federal income tax withheld
c Total number of Forms W-2 1.64"	d Establishment number 1.7"	3 Social security wages	4 Social security tax withheld
e Employer identification number 3.34"		5 Medicare wages and tips	6 Medicare tax withheld
f Employer's name 6.5"		7 Social security tips	8 Allocated tips
		9 Advance EIC payments	10 Dependent care benefits
		11 Nonqualified plans	12 Deferred compensation
g Employer's address and ZIP code		13	
h Other EIN used this year		14	
i Employer's state I.D. no.		15 Income tax withheld by third-party payer	
Contact person	Telephone number ()	Fax number ()	E-mail address

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and, to the best of my knowledge and belief, they are true, correct, and complete.

Signature

Title

Date

Form W-3 Transmittal of Wage and Tax Statements 1999

Department of the Treasury
Internal Revenue Service

Send this entire page with the entire Copy A page of Forms W-2 to the Social Security Administration. Photocopies are NOT acceptable. Do not send any remittance (cash, checks, money orders, etc.) with FORMS W-2 and W-3.

Changes To Note

"YOUR COPY" eliminated. Form W-3 no longer contains a second "YOUR COPY" of the form. Be sure to make a copy of the completed form for your records.

Separate instructions. See the separate **Instructions for Forms W-2 and W-3** for information on completing this form.

Purpose of Form

Use this form to transmit Copy A of Forms W-2. Make a copy of Form W-3, and keep it with Copy D (For Employer) of Forms W-2 for your records. Use Form W-3 for the correct year. **File Form W-3 even if only one Form W-2 is being filed.** If you are filing Forms W-2 on magnetic media or electronically, **do not** file Form W-3.

When To File

File Form W-3 with Copy A of Forms W-2 by February 29, 2000.

Where To File

Send this entire page with the entire Copy A page of Forms W-2 to:

**Social Security Administration
Data Operations Center
Wilkes-Barre, PA 18769-0001**

Note: If you use "Certified Mail" to file, change the ZIP code to "18769-0002." If you use an IRS approved private delivery service, add "ATTN: W-2 PROCESS, 1150 E. Mountain Dr." to the address and change the ZIP code to "18702-7997." See Circular E (Pub. 15) for a list of IRS approved private delivery services.

For Privacy Act and Paperwork Reduction Act Notice, see the 1999 Instructions for Forms W-2 and W-3.

Cat. No. 10159Y

Exhibit C Form W-2 Box Layout

a Control number		22222		Void <input type="checkbox"/>		For Official Use Only ▶ OMB No. 1545-0008	
b Employer identification number				1 Wages, tips, other compensation		2 Federal income tax withheld	
c Employer's name, address, and ZIP code				3 Social security wages		4 Social security tax withheld	
				5 Medicare wages and tips		6 Medicare tax withheld	
				7 Social security tips		8 Allocated tips	
d Employee's social security number				9 Advance EIC payment		10 Dependent care benefits	
e Employee's name (first, middle initial, last)				11 Nonqualified plans		12 Benefits included in box 1	
				13 See instrs. for box 13		14 Other	
f Employee's address and ZIP code				<div style="display: flex; justify-content: space-between; align-items: center;"> <div> 15 Statutory employee Deceased Pension plan Legal rep. Deferred compensation </div> <div> ← 5" → ← 5" → ← 5" → ← 5" → ← 5" → </div> </div>			
16 State Employer's state I.D. no.		17 State wages, tips, etc.		18 State income tax .1"		19 Locality name .1"	
						20 Local wages, tips, etc. .1"	
						21 Local income tax .1"	

Form **W-2** Wage and Tax Statement **1999**

Department of the Treasury—Internal Revenue Service

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

Copy A For Social Security Administration—Send this entire page with Form W-3 to the Social Security Administration; photocopies are **not** acceptable.

Cat. No. 10134D

Do NOT Cut, Staple, or Separate Forms on This Page — Do NOT Cut, Staple, or Separate Forms on This Page

Exhibit D Form W-3

DO NOT STAPLE

a Control number		33333		For Official Use Only ▶ OMB No. 1545-0008	
b Kind of Payer ▶	941	Military	943	1 Wages, tips, other compensation	2 Federal income tax withheld
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3 Social security wages	4 Social security tax withheld
	CT-1 <input type="checkbox"/>	Hshld. emp. <input type="checkbox"/>	Medicare govt. emp. <input type="checkbox"/>		
c Total number of Forms W-2		d Establishment number		5 Medicare wages and tips	6 Medicare tax withheld
e Employer identification number				7 Social security tips	8 Allocated tips
f Employer's name				9 Advance EIC payments	10 Dependent care benefits
				11 Nonqualified plans	12 Deferred compensation
g Employer's address and ZIP code				13	
h Other EIN used this year				14	
i Employer's state I.D. no.				15 Income tax withheld by third-party payer	
Contact person		Telephone number ()	Fax number ()	E-mail address	

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and, to the best of my knowledge and belief, they are true, correct, and complete.

Signature ▶

Title ▶

Date ▶

Form **W-3 Transmittal of Wage and Tax Statements** 1999

Department of the Treasury
Internal Revenue Service

Send this entire page with the entire Copy A page of Forms W-2 to the Social Security Administration. Photocopies are NOT acceptable. Do not send any remittance (cash, checks, money orders, etc.) with FORMS W-2 and W-3.

Changes To Note

"YOUR COPY" eliminated. Form W-3 no longer contains a second "YOUR COPY" of the form. Be sure to make a copy of the completed form for your records.

Separate instructions. See the separate **Instructions for Forms W-2 and W-3** for information on completing this form.

Purpose of Form

Use this form to transmit Copy A of Forms W-2. Make a copy of Form W-3, and keep it with Copy D (For Employer) of Forms W-2 for your records. Use Form W-3 for the correct year. **File Form W-3 even if only one Form W-2 is being filed.** If you are filing Forms W-2 on magnetic media or electronically, **do not** file Form W-3.

When To File

File Form W-3 with Copy A of Forms W-2 by February 29, 2000.

Where To File

Send this entire page with the entire Copy A page of Forms W-2 to:

**Social Security Administration
Data Operations Center
Wilkes-Barre, PA 18769-0001**

Note: If you use "Certified Mail" to file, change the ZIP code to "18769-0002." If you use an IRS approved private delivery service, add "ATTN: W-2 PROCESS, 1150 E. Mountain Dr." to the address and change the ZIP code to "18702-7997." See Circular E (Pub. 15) for a list of IRS approved private delivery services.

For Privacy Act and Paperwork Reduction Act Notice, see the 1999 Instructions for Forms W-2 and W-3.

Cat. No. 10159Y

**Exhibit
E
Form
W-2
(Copy B)**

a Control number		OMB No. 1545-0008					
b Employer identification number		1 Wages, tips, other compensation		2 Federal income tax withheld			
c Employer's name, address, and ZIP code		3 Social security wages		4 Social security tax withheld			
		5 Medicare wages and tips		6 Medicare tax withheld			
		7 Social security tips		8 Allocated tips			
d Employee's social security number		9 Advance EIC payment		10 Dependent care benefits			
e Employee's name, address, and ZIP code		11 Nonqualified plans		12 Benefits included in box 1			
		13 See instrs. for box 13		14 Other			
		15 Statutory employee <input type="checkbox"/>		Deceased <input type="checkbox"/>		Pension plan <input type="checkbox"/>	
				Legal rep. <input type="checkbox"/>		Deferred compensation <input type="checkbox"/>	
16 State	Employer's state I.D. no.	17 State wages, tips, etc.	18 State income tax	19 Locality name	20 Local wages, tips, etc.	21 Local income tax	

Form W-2 Wage and Tax Statement 1999
Copy B To Be Filed With Employee's FEDERAL Tax Return

Department of the Treasury—Internal Revenue Service

This information is being furnished
to the Internal Revenue Service.

**Exhibit
F
Form
W-2
Alternative
Employee
Copies**

				1 Wages, tips, other compensation		2 Federal income tax withheld	
				3 Social security wages		4 Social security tax withheld	
				5 Medicare wages and tips		6 Medicare tax withheld	
16 State	Employer's state I.D. no.		17 State wages, tips, etc.	18 State income tax	19 Locality name	20 Local wages, tips, etc.	21 Local income tax



Horizontal Format

1 Wages, tips, other compensation		2 Federal income tax withheld	
3 Social security wages		4 Social security tax withheld	
5 Medicare wages and tips		6 Medicare tax withheld	
16 State	Employer's state I.D. no.		17 State wages, tips, etc.
18 State income tax		19 Locality name	
20 Local wages, tips, etc.		21 Local income tax	



Vertical Format

Note: Exhibit F provides examples of employee copies of Form W-2 only. copy A, which is sent to SSA, MUST conform to the dimensions in Exhibits A.

The core data boxes are 1 through 6 and, if applicable, 16 through 21. The core data must be similarly positioned, exactly numbered, and exactly titled as shown for each format. Other data may be placed in unoccupied areas based upon the employer's needs. Form identification may be placed before or after the core data. However, the employer's non-core elements may be positioned only between the sections of core data.

Social Security's Employer Service Liaison Officers (formerly Regional Magnetic Media Coordinators)

Social Security's employer service liaison officers and staff can help you and your business clients understand wage reporting requirements, procedures, and reporting methods. Contact the specialist in your geographic area at the phone number listed below.

<u>Calls from:</u>	<u>Telephone:</u>	<u>Calls from:</u>	<u>Telephone:</u>
Alabama	(334) 233-7013 (Montgomery)*	Nevada	(510) 970-8247 (San Francisco)
Alaska	(206) 615-2125 (Seattle)	New Hampshire	(617) 565-2895 (Boston)
American Samoa	(510) 970-8247 (San Francisco)	New Jersey	(212) 264-5643 (New York)
Arizona	(510) 970-8247 (San Francisco)	New Mexico	(505) 346-2848 (Albuquerque)**
Arkansas	(501) 324-5466 (Little Rock)**	New York	(212) 264-5643 (New York)
California	(510) 970-8247 (San Francisco)	North Carolina	(919) 790-2877 x3007 (Raleigh)*
Colorado	(303) 844-2364 (Denver)	North Dakota	(800) 314-1964 (Denver)**
Connecticut	(617) 565-2895 (Boston)	Ohio	(312) 575-4244 (Chicago)
Delaware	(215) 597-4632 (Philadelphia)	Oklahoma	(405) 273-1041 (Bartlesville)
Dist. of Columbia	(215) 597-4632 (Philadelphia)	Oregon	(206) 615-2125 (Seattle)
N. Florida	(850) 942-8975 (Tallahassee)*	Pennsylvania	(215) 597-4632 (Philadelphia)
S. Florida	(305) 672-4517 (Miami Beach)*	Puerto Rico	(787) 766-5574 (San Juan)
Georgia	(912) 285-0654 (Waycross)*	Rhode Island	(617) 565-2895 (Boston)
Guam	(510) 970-8247 (San Francisco)	South Carolina	(864) 582-1091 x260 (Spartanburg)*
Hawaii	(510) 970-8247 (San Francisco)	South Dakota	(800) 314-1964 (Denver)**
Idaho	(206) 615-2125 (Seattle)	Tennessee	(615) 907-9501 (Murfreesboro)*
Illinois	(312) 575-4244 (Chicago)	Texas-Central/South	(210) 472-4442 x3107 (San Antonio)**
Indiana	(312) 575-4244 (Chicago)	Texas-Dallas County	(214) 346-2355 x3051 (Dallas)**
Iowa	(816) 936-5649 (Kansas City)	Texas-North	(817) 978-3123 (Fort Worth)**
Kansas	(501) 324-5466 (Kansas City)	Texas-Southeast	(713) 718-3015 (Houston)**
Kentucky	(502) 875-8315 (Frankfort)*	Texas-West	(505) 346-2848 (Albuquerque)**
Louisiana	(504) 389-0426 (Baton Rouge)**	Utah	(800) 314-1964 (Denver)**
Maine	(617) 565-2895 (Boston)	Vermont	(617) 565-2895 (Boston)
Maryland	(215) 597-4632 (Philadelphia)	Virgin Islands	(787) 766-5574 (San Juan)
Massachusetts	(617) 565-2895 (Boston)	Virginia	(215) 597-4632 (Philadelphia)
Michigan	(312) 575-4244 (Chicago)	Washington	(206) 615-2125 (Seattle)
Minnesota	(312) 575-4244 (Chicago)	West Virginia	(215) 597-4632 (Philadelphia)
Mississippi	(601) 693-4859 (Meridian)*	Wisconsin	(312) 575-4244 (Chicago)
Missouri	(816) 936-5649 (Kansas City)	Wyoming	(800) 314-1964 (Denver)**
Montana	(800) 314-1964 (Denver)**		
Nebraska	(816) 936-5649 (Kansas City)		

*Or, (404) 562-1315 (Atlanta)

**Or, (303) 844-2364 (Denver)

(Rev. March 1999)

Rev. Proc. 99–25

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SECTION 1. PURPOSE

This revenue procedure informs those who participate in the Magnetic Media/Electronic Filing Program for Form 1040NR, U.S. Nonresident Alien Income Tax Return (“1040NR Program”), of their obligations to the Internal Revenue Service, taxpayers, and other participants. This revenue procedure updates and supersedes Rev. Proc. 98–36, 1998–23 I.R.B 10.

SECTION 2. BACKGROUND AND CHANGES

.01 Section 1.6012–5 of the Income Tax Regulations provides that the Commissioner may authorize the use, at the option of a person required to make a return, of a composite return in lieu of any form specified in 26 CFR Part 1 (Income Tax), subject to the conditions, limitations, and special rules governing the preparation, execution, filing, and correction thereof as the Commissioner may deem appropriate.

.02 For purposes of this revenue procedure, a magnetically or electronically filed Form 1040NR is a composite return consisting of data submitted on magnetic tape, floppy disk, or via modem (the “data

portion”), and certain paper documents (the “paper portion”). The paper portion of the return consists of a Form 8453-NR, U.S. Nonresident Alien Income Tax Declaration for Magnetic Media Filing, and other paper documents that cannot be filed magnetically or electronically. Form 8453-NR must be received by the Service before any composite return is complete (see section 5.07 of this revenue procedure). A composite return must contain the same information that a return filed completely on paper contains. See section 7 of this revenue procedure for procedures for completing Form 8453-NR.

.03 The Magnetic Media Project Office (“Project Office”, see section 17 of this revenue procedure for the address and telephone numbers) will periodically issue a list of the forms and schedules that can be magnetically or electronically filed.

.04 A Form 1040NR with a zero balance, balance due, or refund due may be magnetically or electronically filed.

.05 For purposes of the 1040NR Program, a Form 1040NR cannot be filed magnetically or electronically after the first Friday of December following the close of the taxable year, notwithstanding the fact that the taxpayer has been granted

an extension to file beyond that date. Form 2688, Application for Additional Extension of Time To File U.S. Individual Income Tax Return, cannot be filed magnetically or electronically under the 1040NR Program.

.06 An amended tax return cannot be filed magnetically or electronically under the 1040NR Program. A taxpayer must file an amended tax return on paper in accordance with the instructions for Form 1040X, Amended U.S. Individual Income Tax Return.

.07 Upon request, the Project Office will provide technical information (file specifications, record layouts, and testing procedures) for filing Form 1040NR magnetically or electronically.

.08 Some of the updates and changes to Rev. Proc. 98–36 are as follows:

(1) references to specific dates and specific tax years have been replaced with more general references in order to eliminate the need for annual updates to this revenue procedure; and

(2) an applicant that purchases the business of a participant in the 1040 NR Program must submit a new application to the Project Office (section 4.05).

SECTION 3. 1040NR PROGRAM PARTICIPANTS—DEFINITIONS

.01 After acceptance into the 1040NR Program, as described in section 4 of this revenue procedure, a participant is referred to as a “1040NR Filer.”

.02 The 1040NR Filer categories are:

(1) **1040NR RETURN ORIGINATOR.** A “1040NR Return Originator” is: (a) a “1040NR Return Preparer” who prepares tax returns, including Forms 8453-NR, for taxpayers who intend to have their returns magnetically or electronically filed; and/or (b) a “1040NR Return Collector” who accepts completed tax returns, including Forms 8453-NR, from taxpayers who intend to have their returns magnetically or electronically filed.

(2) **SERVICE BUREAU.** A “Service Bureau” receives tax return information on any media from a 1040NR Return Originator, formats the return information, and either (a) sends back the return information to the 1040NR Return Originator, or (b) forwards the return information to a Transmitter. A Service Bureau may send Forms 8453-NR to the Service.

(3) **SOFTWARE DEVELOPER.** A “Software Developer” develops software for the purposes of (a) formatting the data portion of returns according to the Service’s magnetic or electronic return filing specifications; and/or (b) transmitting the data portion of returns directly with the Service. A Software Developer may also sell its software.

(4) **TRANSMITTER.** A “Transmitter” sends the data portion of a return directly to the Service.

.03 The 1040NR Filer categories are not mutually exclusive. For example, a 1040NR Return Originator can, at the same time, be considered a Transmitter, Software Developer, or Service Bureau depending on the function(s) performed.

SECTION 4. ACCEPTANCE INTO THE 1040NR PROGRAM

.01 Except as provided in sections 4.02 and 4.03 of this revenue procedure, a 1040NR Filer that has participated in the most recent 1040NR Program does not have to reapply to participate in the 1040NR Program. However, a 1040NR Filer that intends to function as a Transmitter or a Software Developer in the 1040NR Program must first successfully

complete the testing referred to in section 4.07 of this revenue procedure. In addition, section 4.08 of this revenue procedure provides for the Service’s issuance of credentials necessary for participation in the 1040NR Program.

.02 Applicants and 1040NR Filers must file a new Form MAR-8980, Application for Electronic/Magnetic Media Filing of Form 1040NR, with the Project Office if:

(1) the applicant has never participated in the 1040NR Program;

(2) the applicant has previously been denied participation in the 1040NR Program; or

(3) the applicant has been suspended from the 1040NR Program.

.03 To participate in the 1040NR Program, a 1040NR Filer in the most recent 1040NR Program must submit to the Project Office either a revised Form MAR-8980, or a letter containing the same information contained in the revised Form MAR-8980, if there is any change to the following information:

(1) the Firm name or Doing Business As (DBA) name;

(2) the business or mailing address;

(3) the contact person’s name or telephone number; or

(4) the 1040NR Filer category.

.04 Applications described in this section 4.02 may be submitted at any time during the year.

.05 If an applicant purchases an existing 1040NR Filer’s business, a new application and proof of sale must be submitted during the period beginning 45 days before, and ending 30 days after, the date of the purchase.

.06 Revised applications described in this section 4.03 must be submitted within 30 days of the change(s) reflected on the revised Form MAR-8980 or in the letter.

.07 A 1040NR Filer may not submit tax returns under the 1040NR Program until 30 days after it has successfully completed the necessary testing administered by the Project Office.

.08 The Service will issue credentials to eligible applicants, 1040NR Filers that do not have to reapply pursuant to section 4.01 of this revenue procedure, and 1040NR Filers that comply with section 4.02 or 4.03 of this revenue procedure, provided they have first satisfactorily completed the testing described in section 4.07 of this revenue procedure if they in-

tend to function as a Transmitter or Software Developer. No one may participate in the 1040NR Program without the following credentials:

(1) a letter of acceptance into the 1040NR Program; and

(2) a Magnetic Tape 1040NR Filer Identification Number (MTFIN).

.09 The following reasons may result in rejection of an application to participate in the 1040NR Program (this list is not all-inclusive):

(1) conviction of any criminal offense under the revenue laws of the United States, or of any offense involving dishonesty or breach of trust;

(2) failure to timely and accurately file tax returns, including returns indicating that no tax is due;

(3) failure to timely pay any tax liabilities;

(4) assessment of tax penalties;

(5) suspension/disbarment from practice before the Service;

(6) disreputable conduct or other facts that would reflect adversely on the 1040NR Program;

(7) misrepresentation on an application;

(8) suspension or rejection from the 1040NR Program in a prior year;

(9) unethical practices in return preparation;

(10) stockpiling returns prior to official acceptance into the 1040NR Program (see section 5.10 of this revenue procedure);

(11) knowingly and directly or indirectly employing or accepting assistance from any firm, organization, or individual that is prohibited from applying to participate in the 1040NR Program (see section 13.09 of this revenue procedure) or that is suspended from participating in that Program (see section 12.07 of this revenue procedure). This includes any individual whose actions resulted in the rejection or suspension of a corporation or a partnership from the 1040NR Program; or

(12) knowingly and directly or indirectly accepting employment as an associate, correspondent, or as a subagent from, or sharing fees with, any firm, organization, or individual that is prohibited from applying to participate in the 1040NR Program (see section 13.09 of this revenue procedure) or that is suspended from participating in that Program (see section

12.07 of this revenue procedure). This includes any individual whose actions resulted in the rejection or suspension of a corporation or a partnership from the 1040NR Program.

SECTION 5. RESPONSIBILITIES OF A 1040NR FILER

.01 To ensure that complete returns are accurately and efficiently filed, a 1040NR Filer must comply with all publications and notices of the Service related to magnetic or electronic filing. Currently, these publications and notices include:

(1) Procedures for Magnetic Media Filing of U.S. Nonresident Alien Income Tax Returns, Form 1040NR (available from the Project Office);

(2) File Specifications and Record Layouts for Magnetic Media Filing of U.S. Nonresident Alien Income Tax Returns, Form 1040NR (available from the Project Office); and

(3) Postings to the Electronic Filing System Bulletin Board (EFS Bulletin Board).

.02 A 1040NR Filer must maintain a high degree of integrity, compliance, and accuracy.

.03 A 1040NR Filer may accept returns for magnetic or electronic filing only from the taxpayer filing the return, a representative of the taxpayer filing the return, or from another 1040NR Filer.

.04 If a 1040NR Filer charges a fee for the transmission of the data portion of the tax return, the fee may not be based on a percentage of the refund amount or any other amount from the tax return. A 1040NR Filer may not charge a separate fee for Direct Deposit. See section 9 of this revenue procedure for a discussion of Direct Deposit.

.05 A 1040NR Filer must submit a revised Form MAR-8980 to the Project Office within 30 days of when any of the conditions or changes described in section 4.03 of this revenue procedure occur.

.06 A 1040NR Filer must notify the Project Office within 30 days of discontinuing its participation in the 1040NR Program. This does not preclude reapplication in the future.

.07 A 1040NR Filer must ensure that it promptly processes returns submitted to it for magnetic or electronic filing. See sections 5.10, 5.16, and 5.17 of this revenue procedure. However, a 1040NR Filer that

receives a return for magnetic or electronic filing on or before the due date of the return must ensure that the data portion of the return is filed on or before that due date (including extensions, see section 5.08 of this revenue procedure). A composite return is not considered filed until the data portion of the tax return is acknowledged by the Service as accepted for processing and a completed and signed Form 8453-NR is received by the Service. However, if the data portion of a return is successfully transmitted on or shortly before the due date and the 1040NR Filer complies with section 7.01 of this revenue procedure, the return will be deemed timely filed. If the data portion of a return is transmitted on or shortly before the due date but is ultimately rejected, the return will be deemed timely filed if the 1040NR Filer and the taxpayer comply with section 5.14 of this revenue procedure. In the case of a balance due return, see section 10 of this revenue procedure for instructions on how to make a timely payment of tax.

.08 Unless the Service grants an extension of time to file beyond the due date of the return, a 1040NR Filer must ensure that the return for any individual is received by the Service on or before:

(1) April 15 if the individual was an employee and received wages subject to U.S. federal income tax withholding; or

(2) June 15 if the individual did not receive such wages.

However, section 2.05 of this revenue procedure provides that a return cannot be filed magnetically or electronically after the first Friday of December following the close of the taxable year.

.09 A 1040NR Filer must ensure against the unauthorized use of its MTFIN. A 1040NR Filer must not transfer its MTFIN by sale, merger, loan, gift, or otherwise to another entity.

.10 A 1040NR Filer is responsible for ensuring that stockpiling does not occur. Prior to official acceptance of the 1040NR Filer into the 1040NR Program, stockpiling means collecting returns from taxpayers. After official acceptance, stockpiling means:

(1) in the case of a 1040NR Return Originator, waiting for more than three calendar days after receiving the necessary information to submit a return to a Transmitter or Service Bureau, or

(2) in the case of a Transmitter, waiting for more than ten calendar days after receiving the necessary information to send the data portion of the return to the Service.

.11 A 1040NR Filer that functions as a Return Originator must:

(1) comply with the procedures for completing Form 8453-NR described in section 7 of this revenue procedure;

(2) comply with the procedures described in section 10 of this revenue procedure for handling a balance due return;

(3) furnish the taxpayer with a copy of the signed Form 8453-NR (except for multiple return filing as described in section 7.01(5) of this revenue procedure) and, in the case of a prepared or corrected return, a copy of the paper portion of the return;

(4) while returns are being filed, retain and, if requested, make available to the Service the following material at the business address from which a return was accepted for magnetic or electronic filing:

(a) a copy of the signed Form 8453-NR, paper copies of Forms W-2, Wage and Tax Statement, W-2G, Certain Gambling Winnings, 1099-R, Distributions From Pensions, Annuities, Retirement or Profit Sharing Plans, IRAs, Insurance Contracts, etc., and the paper portion of the taxpayer's return;

(b) a complete copy of the data portion of the taxpayer's return (which may be retained on computer media) that can be readily and accurately converted into magnetic or electronic data that the Service can process; and

(c) the acknowledgement file (stating that the Service accepts the data portion of the taxpayer's return for processing) received from the Service or from a third party Transmitter;

(5) retain until the end of the calendar year in which a return was filed and make available to the Service upon request the materials described in section 5.11(4) of this revenue procedure, at the business address from which a return was accepted for magnetic or electronic filing or from the contact person named on Form MAR-8980.

.12 A 1040NR Return Originator who is the paid preparer of a magnetically or electronically filed Form 1040NR must also retain for the prescribed amount of time the materials described in § 1.6107-

1(b) that are required to be kept by an income tax return preparer.

.13 A 1040NR Return Originator must identify the paid preparer (if any) in the appropriate field of the data portion of the return, in addition to ensuring that the paid preparer signed Form 8453-NR. If Form 8453-NR is not signed by the paid preparer, the 1040NR Return Originator must attach a copy of the Form 1040NR originally signed by the paid preparer. This copy must be marked "COPY-DO NOT PROCESS" to prevent duplicate filings.

.14 If the Service rejects the data portion of a taxpayer's return (the Service states that it rejects the data portion of a taxpayer's return for processing in the acknowledgement file), and the reason for the rejection cannot be rectified by the actions described in section 6.02(3) of this revenue procedure, the 1040NR Return Originator, within 24 hours of receiving the rejection, must take reasonable steps to tell the taxpayer that the taxpayer's return has not been filed. If the taxpayer chooses to have the data portion of the return resubmitted magnetically or electronically, and the 1040NR Return Originator successfully works with the Project Office to correct the problems causing the data portion of the return to be rejected, the return will be accepted as timely filed. A new Form 8453-NR may be required (see section 7 of this revenue procedure). However, even when no new Form 8453-NR is required, the Transmitter must submit a photocopy of the original Form 8453-NR with the rejected file or return and mark the photocopy "Retransmitted." If the Project Office determines that the data portion of a return cannot be accepted for processing or the taxpayer chooses not to have the rejected data portion of the return resubmitted magnetically or electronically, the taxpayer must file a paper return by the later of:

- (1) the due date (with regard to any extensions of time to file) of the return; or
- (2) ten calendar days after the Service gives notification that the data portion of the return is rejected or that the data portion of the return cannot be accepted for processing.

The paper return should include an explanation of why the return is being filed after the due date.

.15 A 1040NR Return Originator must use the taxpayer's address in the data por-

tion of the return. In addition, a 1040NR Return Originator must not put its address as the taxpayer's address in the data portion of the return.

.16 A 1040NR Filer that functions as a Service Bureau must:

- (1) deliver all data portions of returns to a Transmitter or return them to the 1040NR Return Originator who gave the data portions of the returns to the Service Bureau within three calendar days of receipt;

- (2) retrieve the acknowledgement file from the Transmitter within one calendar day of receipt by the Transmitter;

- (3) send the acknowledgement file to the 1040NR Return Originator (whether related or not) within one work day of retrieving the acknowledgement file;

- (4) if the Service Bureau processes Forms 8453-NR, send back to the 1040NR Return Originator any return and Form 8453-NR that needs correction, unless the correction is described in section 7.02(1) of this revenue procedure;

- (5) accept tax return information only from 1040NR Filers;

- (6) include its MTFIN and the 1040NR Return Originator's MTFIN with all return information the Service Bureau forwards to a Transmitter or sends back to the 1040NR Return Originator;

- (7) retain each acknowledgement file received from a Transmitter until the end of the calendar year in which the return was filed;

- (8) if requested, serve as a contact point between its client 1040NR Return Originator and the Service; and

- (9) if requested, provide the Service with a list of each client 1040NR Return Originator.

.17 A 1040NR Filer that functions as a Transmitter must:

- (1) send to the Service all data portions of returns within ten calendar days of receipt;

- (2) match the acknowledgement file to the original transmission file and send the acknowledgement file to the 1040NR Return Originator or the Service Bureau (whether or not the 1040NR Return Originator or the Service Bureau are related to the Transmitter) within five calendar days after receipt of the acknowledgement file from the Service;

- (3) retain an acknowledgement file received from the Service until the end of

the calendar year in which the return was filed;

- (4) immediately contact the Project Office for further instructions if an acknowledgement of acceptance for processing has not been received by the Transmitter within 14 calendar days of transmission, or if a Transmitter receives an acknowledgement for a return that was not transmitted on the designated transmission;

- (5) promptly correct any transmission error that causes a data portion of a return to be rejected;

- (6) contact the Project Office for assistance if a data portion of a return has been rejected after three transmission attempts; and

- (7) ensure the security of all transmitted data.

.18 A Transmitter that provides transmission services to another 1040NR Filer must, in addition to the items covered in section 5.17 of this revenue procedure, also:

- (1) accept returns for transmission to the Service only from an accepted 1040NR Filer; and

- (2) use its assigned MTFIN when filing returns.

.19 A 1040NR Filer that functions as a Software Developer must:

- (1) promptly correct any software error that causes a data portion of a return to be rejected;

- (2) promptly distribute any software correction made to its software packages to all 1040NR Filers utilizing these packages; and

- (3) not incorporate into its software a Service-assigned production password.

.20 In addition to the specific responsibilities described in this section, a 1040NR Filer must meet all the requirements in this revenue procedure to keep the privilege of participating in the 1040NR Program.

SECTION 6. PENALTIES

.01 *Penalties for Disclosure or Use of Information.*

- (1) A 1040NR Filer, except a Software Developer, is a tax return preparer ("Preparer") under the definition of § 301.7216-1(b) of the Regulations on Procedure and Administration. A Preparer is subject to a criminal penalty for

unauthorized disclosure or use of tax return information. See § 7216 of the Internal Revenue Code and § 301.7216-1(a). In addition, § 6713 establishes civil penalties for unauthorized disclosure or use of tax return information.

(2) Under § 301.7216-2(h), disclosure of tax return information among accepted 1040NR Filers for the purpose of preparing a return is permissible. For example, a 1040NR Return Originator may pass on tax return information to a Service Bureau and/or a Transmitter for the purpose of having the data portion of a return formatted and sent to the Service. However, if the tax return information is disclosed or used in any other way, a Service Bureau and/or a Transmitter may be subject to the penalties described in section 6.01(1) of this revenue procedure.

.02 Other Preparer Penalties.

(1) Preparer penalties may be asserted against an individual or firm who meets the definition of an income tax return preparer under §§ 7701(a)(36) and 301.7701-15. Preparer penalties that may be asserted under appropriate circumstances include, but are not limited to, those set forth in §§ 6694, 6695, and 6713.

(2) Under § 301.7701-15(d), 1040NR Return Collectors, Service Bureaus, Software Developers, and Transmitters are not income tax return preparers for the purpose of assessing most preparer penalties as long as their services are limited to “typing, reproduction, or other mechanical assistance in the preparation of a return or claim for refund.”

(3) If a 1040NR Return Collector, Service Bureau, Software Developer, or Transmitter alters the return information in a nonsubstantive way, this alteration will be considered to come under the “mechanical assistance” exception described in § 301.7701-15(d)(1). A nonsubstantive change is a correction or change limited to a transposition error, misplaced entry, spelling error, or arithmetic correction that falls within one of the following tolerances:

(a) the “Total tax”, “Total payments”, “Refund”, or “Amount you owe” on Form 8453-NR differs from the corresponding amount on the data portion of the return by no more than \$7;

(b) the “Total effectively connected income” amount shown on Form

8453-NR differs from the corresponding amount on the data portion of the return by no more than \$25; or

(c) dropping cents and rounding to whole dollars.

(4) If a 1040NR Return Collector, Service Bureau, or Transmitter alters the return information in a substantive way, rather than having the taxpayer alter the return, the 1040NR Return Collector, Service Bureau, or Transmitter will be considered to be an income tax return preparer for purposes of § 7701(a)(36).

(5) If a 1040NR Return Collector, Service Bureau, Transmitter, or the product of a Software Developer, goes beyond mechanical assistance, any of these parties may be held liable for income tax return preparer penalties. See Rev. Rul. 85-189, 1985-2 C.B. 341, (which describes a situation where a Software Developer was determined to be an income tax return preparer and subject to certain preparer penalties).

.03 Other Penalties. In addition to the above specified provisions, the Service reserves the right to assert all appropriate civil and criminal penalties, including preparer, nonpreparer, and disclosure penalties, against a 1040NR Filer as warranted under the circumstances.

SECTION 7. FORM 8453-NR, U.S. NONRESIDENT ALIEN INCOME TAX DECLARATION FOR MAGNETIC MEDIA FILING

.01 Procedures for Completing Form 8453-NR.

(1) Form 8453-NR must be completed in accordance with the instructions for Form 8453-NR.

(2) The taxpayer’s name, taxpayer identification number, tax return information, and direct deposit of refund information in the data portion of the return must be identical to the information on the Form 8453-NR signed by the taxpayer (or by the taxpayer’s authorized representative as described in section 7.01(5) of this revenue procedure) and provided for submission to the Service.

(3) A 1040NR Filer, a financial institution, or any other entity associated with the magnetic or electronic filing of a taxpayer’s return must not put its address on Form 8453-NR or anywhere in the data portion of a return.

(4) Except for multiple return filing as described in section 7.01(5) of this revenue procedure, after the return has been prepared and before the return is submitted, the taxpayer must verify the information on the data portion of the return and on Form 8453-NR, and must sign Form 8453-NR.

(5) A 1040NR Filer must submit a Form 8453-NR to the Project Office with each magnetically or electronically filed return. A single Form 8453-NR (inscribed with the language “See attached Multiple Return Information Listing”) may be used for a multiple return filing if the person who signs Form 8453-NR has authorization, either by a specific power of attorney or as a responsible representative or agent under § 1.6012-3(b), to sign each of the returns included in the multiple return filing. A person who makes a multiple return filing must attach to Form 8453-NR an information page(s) titled “Form 8453-NR for Multiple Returns—Tax Return Information Listing” at the top of the page(s). Below the title, the multiple return 1040NR Filer must provide his or her name and address. The next item on the page(s) must be a list that includes every taxpayer’s name control, taxpayer identification number, and the information shown on lines one through five on Form 8453-NR, for each return included in a multiple return filing.

(6) If a 1040NR Filer functions as a 1040NR Return Originator, the 1040NR Filer must sign the 1040NR Return Originator’s Declaration on Form 8453-NR.

(7) If the 1040NR Filer is also the paid preparer, the 1040NR Filer must check the “Paid Preparer” box and sign the 1040NR Return Originator Declaration on Form 8453-NR.

.02 Corrections to Form 8453-NR.

(1) A new form 8453-NR is not required for a nonsubstantive change. A nonsubstantive change is limited to a correction that does not exceed the tolerances, described in section 7.02(2) of this revenue procedure for arithmetic errors, a transposition error, a misplaced entry, or a spelling error. The incorrect nonsubstantive information must be neatly lined through on the Form 8453-NR and the correct data entered next to the lined-through entry. Also, the individual making the correction must initial the correction.

(2) The tolerances for section 7.02(1) of this revenue procedure are:

(a) the “Total effectively connected income” does not differ from the amount on the data portion of the return by more than \$25; or

(b) the “Total tax”, the “Total payments”, the “Refund”, or the “Amount you owe” does not differ from the amount on the data portion of the return by more than \$7.

(3) If the 1040NR Return Originator makes a substantive change to the data portion of the return after Form 8453-NR has been signed by the taxpayer, but before it is transmitted to the Service, the 1040NR Return Originator must have all the necessary parties described above sign a new Form 8453-NR that reflects the corrections before the data portion of the return is transmitted.

(4) Dropping cents or rounding to whole dollars does not constitute a substantive change or alteration to the return unless the amount differs by more than the above tolerances. All rounding should be accomplished in accordance with the instructions in the Form 1040NR tax package.

.03 Missing Form 8453-NR. If the Service determines that a Form 8453-NR is missing, the 1040NR Return Originator must provide the Service with a replacement. A 1040NR Return Originator must also provide a copy of the Form(s) W-2, W-2G, 1099R, and all other attachments to the Form 8453-NR.

.04 Substitute Form 8453-NR. If a substitute Form 8453-NR is used, it must be approved by the Service prior to use.

SECTION 8. INFORMATION A 1040NR FILER MUST PROVIDE TO THE TAXPAYER

.01 The 1040NR Return Originator must furnish the taxpayer with a complete paper copy of the taxpayer’s return (except for multiple return filing as described in section 7.01(5) of this revenue procedure). However, the copy need not contain the social security number of the paid preparer. See Rev. Rul. 78–317, 1978–2 C.B. 335. A complete copy of the taxpayer’s return includes:

(1) Form 8453-NR and other paper documents that cannot be magnetically or electronically transmitted, and

(2) a printout of the data portion of the return. See section 2.02 of this revenue procedure. The data portion of the return can be contained on a replica of an official form or on an unofficial form. However, on an unofficial form, data entries must be referenced to the line numbers on an official form.

.02 The 1040NR Return Originator must advise the taxpayer to retain a complete copy of the return and any supporting material.

.03 The 1040NR Return Originator must advise the taxpayer that an amended return, if needed, must be filed as a paper return and mailed to the Philadelphia Service Center.

.04 The 1040NR Return Originator must, upon request, provide the taxpayer with the date the Service acknowledged that the data portion of the taxpayer’s return was accepted for processing.

.05 A 1040NR Return Originator must advise taxpayers that they can call the local IRS TeleTax number to inquire about the status of their tax refund. The 1040NR Return Originator should also advise taxpayers to wait at least three weeks from the date the Service acknowledged that the data portion of the taxpayer’s return was accepted for processing before calling the TeleTax number.

.06 If a taxpayer chooses to use an address other than his or her home address on the return, the 1040NR Return Originator must inform the taxpayer that the address on the data portion of the return, once processed by the Service, will be used to update the taxpayer’s address of record. The Internal Revenue Service uses the taxpayer’s address of record for various notices that are required to be sent to a taxpayer’s “last known address” under the Internal Revenue Code and for refunds of overpayments of tax (unless otherwise specifically directed by the taxpayer, such as by Direct Deposit).

SECTION 9. DIRECT DEPOSIT OF REFUNDS

.01 The Service will ordinarily process a request for Direct Deposit but reserves the right to issue a paper refund check.

.02 The Service does not guarantee a specific date by which a refund will be directly deposited into the taxpayer’s financial institution account. The taxpayer’s

account must be with a financial institution located in the United States.

.03 Neither the Service nor the Financial Management Service (FMS) is responsible for the misapplication of a Direct Deposit that is caused by error, negligence, or malfeasance on the part of the taxpayer, 1040NR Filer, financial institution, or any of their agents.

.04 A 1040NR Return Originator must:

(1) advise taxpayers of the option to receive their refund by paper check or direct deposit;

(2) not charge a separate fee for Direct Deposit;

(3) accept any Direct Deposit election to any eligible financial institution designated by the taxpayer;

(4) ensure that the taxpayer is eligible to choose Direct Deposit;

(5) verify that the Direct Deposit information requested on Part II of Form 8453-NR was entered correctly and that the information entered is the information transmitted on the data portion of the return;

(6) caution the taxpayer that once a data portion of a return has been accepted for processing by the Service:

(a) the Direct Deposit election cannot be rescinded;

(b) the routing number of the financial institution cannot be changed; and

(c) the taxpayer’s account number cannot be changed; and

(7) advise the taxpayer that refund information is available by calling the IRS TeleTax number. See section 8.05 of this revenue procedure.

SECTION 10. BALANCE DUE RETURNS

.01 A magnetically or electronically filed balance due return is submitted to the Philadelphia Service Center in the same manner that a refund or zero balance return is submitted. A balance due return is not complete unless and until the Service receives a Form 8453-NR completed and signed by the taxpayer (or by the taxpayer’s authorized representative as described in section 7.01(5) of this revenue procedure).

.02 A taxpayer who magnetically or electronically files a balance due return must make a full and timely payment of any tax that is due. Failure to make full

payment on or before the due date of the return (determined without regard to extensions) will result in the imposition of interest and may result in the imposition of penalties.

SECTION 11. ADVERTISING STANDARDS FOR 1040NR FILERS AND FINANCIAL INSTITUTIONS

.01 A 1040NR Filer must comply with the advertising and solicitation provisions of 31 C.F.R. Part 10 (Treasury Department Circular No. 230). This circular prohibits the use or participation in the use of any form of public communication containing a false, fraudulent, misleading, deceptive, unduly influencing, coercive, or unfair statement or claim. Any claims concerning faster refunds by virtue of magnetically or electronically filing returns must be consistent with the language in official Service publications.

.02 A 1040NR Filer must adhere to all relevant federal, state, and local consumer protection laws that relate to advertising and soliciting.

.03 A 1040NR Filer must not use the Service's name, "Internal Revenue Service," or "IRS" within a firm's name.

.04 A 1040NR Filer must not use improper or misleading advertising in relation to the 1040NR Program (including the time frames for refunds).

.05 A 1040NR Filer using promotional material or logos provided by the Service must comply with all Service instructions pertaining to the promotional materials or logos.

.06 A 1040NR Filer using the Direct Deposit name and logo must comply with the following:

(1) The name "Direct Deposit" will be used with initial capital letters or all capital letters.

(2) The logo/graphic for Direct Deposit will be used whenever feasible in advertising copy.

(3) The color or size of the Direct Deposit logo/graphic may be changed when used in advertising pieces.

.07 Advertising materials must not carry the FMS, IRS, or other Treasury seals.

.08 Advertising for a cooperative 1040NR return project (public/private sector) must clearly state the names of all cooperating parties.

.09 If a 1040NR Filer uses radio or television broadcasting to advertise, the broadcast must be pre-recorded. The 1040NR Filer must keep a copy of the pre-recorded advertisement for a period of at least 36 months from the date of the last transmission or use.

.10 If a 1040NR Filer uses direct mail or fax communications to advertise, the 1040NR Filer must retain a copy of the actual mailing or fax, along with a list or other description of the firms, organizations or individuals to whom the communication was mailed, faxed, or otherwise distributed for a period of at least 36 months from the date of the last mailing, fax, or distribution.

.11 Acceptance to participate in the 1040NR Program does not imply endorsement by the Service or FMS of the software or quality of services provided.

SECTION 12. MONITORING AND SUSPENSION OF A 1040NR FILER

.01 The Service will monitor a 1040NR Filer for conformity with this revenue procedure. Before suspending a 1040NR Filer, the Service may issue a warning letter that describes specific corrective action for deviations from this revenue procedure. However, the Service can immediately suspend, without notice, a 1040NR Filer from the 1040NR Program. In most circumstances, a suspension from participation in the 1040NR Program is effective as of the date of the letter informing the 1040NR Filer of the suspension.

.02 The Service will monitor the timely receipt of Forms 8453-NR, as well as their overall legibility.

.03 The Service will monitor the quality of the 1040NR Filer's submissions throughout the filing season. The Service will also monitor data portions of returns and tabulate rejections, errors, and other defects. If quality deteriorates, the 1040NR Filer may receive a warning from the Service.

.04 The Service will monitor complaints about a 1040NR Filer and issue a warning or suspension letter as appropriate.

.05 The Service reserves the right to suspend a 1040NR Filer from participation in the 1040NR Program for violating any provision of this revenue procedure. Generally, the Service will advise a sus-

pended 1040NR Filer concerning the requirements for reacceptance into the 1040NR Program. The following reasons may lead to a warning letter and/or suspension of a 1040NR Filer from the 1040NR Program (this list is not all-inclusive):

(1) the reasons listed in section 4.09 of this revenue procedure;

(2) deterioration in the format of individual submissions;

(3) unacceptable cumulative error or rejection rate;

(4) untimely received, illegible, incomplete, missing, or unapproved substitute Forms 8453-NR;

(5) stockpiling returns at any time while participating in the 1040NR Program;

(6) failure on the part of a Transmitter to provide a 1040NR Return Originator or Service Bureau with acknowledgment files within five calendar days after receipt from the Service;

(7) significant complaints about a 1040NR Filer's performance in the 1040NR Program;

(8) failure on the part of a 1040NR Filer to ensure against the unauthorized use of its assigned MTFIN;

(9) having more than one MTFIN for the same business entity at the same location (the business entity is generally the entity that reports on its return the income derived from magnetic or electronic filing), unless the Service has issued more than one MTFIN to a business entity;

(10) failure on the part of a 1040NR Filer to cooperate with the Service's efforts to monitor 1040NR Filers and investigate filing abuse;

(11) failure on the part of a 1040NR Filer to properly use the standard/non-standard W-2 indicator;

(12) failure on the part of a Service Bureau or a Transmitter to use its assigned MTFIN when filing returns;

(13) failure on the part of the Transmitter to include a Service Bureau's MTFIN in the transmission of a return submitted by a Service Bureau;

(14) failure on the part of a Service Bureau or a Transmitter to include the 1040NR Return Originator's MTFIN as part of a return that the 1040NR Return Originator submits to the Service Bureau or the Transmitter;

(15) violation of the advertising standards described in section 11 of this revenue procedure;

(16) failure to maintain and make available records as described in sections 5.11(4) and (5) of this revenue procedure;

(17) accepting a tax return for magnetic or electronic filing either directly or indirectly from a firm, organization, or individual (other than the taxpayer who is submitting his or her return) that is not a 1040NR Filer;

(18) submitting information on the data portion of the return that is not identical to the information on the Form 8453-NR; or

(19) failure to timely submit a revised Form MAR-8980 notifying the Service of changes described in section 4.02 or 4.03 of this revenue procedure.

.06 The Service may list in the Internal Revenue Bulletin, district office listings, district office newsletters, on the EFS Bulletin Board, or in other appropriate publications, the name of any entity that is suspended from the 1040NR Program and the effective date of that suspension.

.07 If a participant is suspended from participating in the 1040NR Program, the period of suspension includes the remainder of the calendar year in which the suspension occurs plus the next two calendar years. A suspended participant may submit a new application for the application period immediately preceding the end of the suspension.

SECTION 13. ADMINISTRATIVE REVIEW PROCESS FOR DENIAL OF PARTICIPATION IN THE 1040NR PROGRAM

.01 An applicant that has been denied participation in the 1040NR Program has the right to an administrative review. During the administrative review process, the denial of participation remains in effect.

.02 In response to the submission of a Form MAR-8980, the Project Office will either (1) accept an applicant into the 1040NR Program, or (2) issue a proposed letter of denial that explains to the applicant why the Service proposes to reject the application to participate in the 1040NR Program.

.03 An applicant that receives a proposed letter of denial may mail or deliver, within 30 calendar days of the date of the proposed letter of denial, a written re-

sponse to the Project Office. The applicant's response must address the Project Office's reason(s) for proposing the denial to participate.

.04 Upon receipt of an applicant's written response, the Project Office will reconsider its proposed letter of denial. The Project Office may (1) withdraw its proposed letter of denial and accept the applicant into the 1040NR Program, or (2) finalize the proposed denial letter.

.05 If an applicant receives a final denial letter from the Project Office, the applicant is entitled to an appeal, in writing, to the Director of Practice.

.06 The appeal must be mailed or delivered to the Project Office within 30 calendar days of the date of the final denial letter. An applicant's written appeal must contain a detailed explanation, with supporting documentation, of why the denial should be reversed.

.07 The Project Office, upon receipt of a written appeal to the Director of Practice, will forward to the Director of Practice its file on the applicant and the material described in section 13.06 of this revenue procedure. The Project Office will forward these materials to the Director of Practice within 15 calendar days of receipt of the applicant's written appeal.

.08 Failure to respond within either of the 30-day periods described in sections 13.03 and 13.06 of this revenue procedure irrevocably terminates an applicant's right to an administrative review or appeal.

.09 If an application for participation in the 1040NR Program is denied, the applicant is ineligible to submit a new application for two years from the application date of the denied application.

SECTION 14. ADMINISTRATIVE REVIEW PROCESS FOR SUSPENSION FROM THE 1040NR PROGRAM

.01 A 1040NR Filer that has been suspended from participation in the 1040NR Program has the right to an administrative review. During the administrative review process, the suspension remains in effect.

.02 If a 1040NR Filer receives a suspension letter, the 1040NR Filer may mail or deliver, within 30 calendar days of the date of the suspension letter, a detailed written explanation, with supporting documentation, of why the suspension letter should be withdrawn. This written response should be sent to the Project Office.

.03 Upon receipt of the 1040NR Filer's written response, the Project Office will reconsider its suspension of the 1040NR Filer. The Project Office may either (1) withdraw its suspension letter and reinstate the 1040NR Filer, or (2) affirm the suspension.

.04 If a 1040NR Filer receives a letter affirming the suspension, the 1040NR Filer is entitled to an appeal, in writing, to the Director of Practice.

.05 The appeal must be mailed or delivered to the Project Office within 30 calendar days of the date of the letter affirming the suspension. The 1040NR Filer's written appeal must contain detailed reasons, with supporting documentation, for reversal of the suspension.

.06 The Project Office, upon receipt of a written appeal to the Director of Practice, will forward to the Director of Practice its file on the 1040NR Filer and the material described in section 14.05 of this revenue procedure. The Project Office will forward these materials to the Director of Practice within 15 calendar days of the receipt of a 1040NR Filer's written request for appeal.

.07 Failure to appeal within either of the 30-day periods described in sections 14.02 and 14.05 of this revenue procedure irrevocably terminates a 1040NR Filer's right to an appeal.

SECTION 15. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 98-36, 1998-23 I.R.B 10, is superseded.

SECTION 16. EFFECTIVE DATE

This revenue procedure is effective May 24, 1999.

SECTION 17. PROJECT OFFICE INFORMATION

All questions regarding this revenue procedure should be directed to:

Internal Revenue Service
Philadelphia Service Center
ATTN: DP-115-Magnetic Media
Project Office
11601 Roosevelt Blvd.
Philadelphia, PA 19154
U.S.A.

The telephone number of this office is (215) 516-7533 (not a toll-free number) or 800-829-6945 (a toll-free number).

Part IV. Items of General Interest

Foundations Status of Certain Organizations

Announcement 99-54

The following organizations have failed to establish or have been unable to maintain their status as public charities or as operating foundations. Accordingly, grantors and contributors may not, after this date, rely on previous rulings or designations in the Cumulative List of Organizations (Publication 78), or on the presumption arising from the filing of notices under section 508(b) of the Code. This listing does *not* indicate that the organizations have lost their status as organizations described in section 501(c)(3), eligible to receive deductible contributions.

Former Public Charities. The following organizations (which have been treated as organizations that are not private foundations described in section 509(a) of the Code) are now classified as private foundations:

Ostrovsky Childrens Foundation,
Southfield, MI
Oswego International Sport Fishing
Collection Inc., Oswego, NY
Oswego Valley Industrial Interpretive
Center Inc., Fulton, NY
Other Things & Company, Oxford, MI
Our Fathers Divine Work Inc., Baltimore,
MD
Our Home a Nonprofit Corporation,
Omaha, NE
Our Lady of Perpetual Help School
Foundation Inc., Bakersfield, CA
Our Special Friendships Inc., Scroggins,
TX
Outagamie Conflict Resolution Center
Inc., Appleton, WI
Outreach International Ministries Inc.,
Hyde Park, NY
Outreach Nationwide Inc., Bronx, NY
Owensboro Little Theatre Inc.,
Owensboro, KY
Oxon Hill High School OHHS Air Force
Junior Reserve Officer, Fort
Washington, MD
Ozark Area Emergency Physicians
Association, Springfield, MO
P A C T People Against Car Theft Inc.,
East Orange, NJ
P A L of Bergen County Inc., Maywood,
NJ
P I M Relief Fund, Urbandale, IA

P R I D E, Asheville, NC
PAAC Inc., Salt Lake City, UT
Pace Research Inc., Appleton, WI
Pacific Vision Foundation, Chehalis, WA
Palette Mask and Lyre Studio Theater
Inc., Lake worth, FL
Palms Springs Youth Football
Association, Palm Springs, CA
Palookaville, Chicago, IL
Pandora Inc., Washington, DC
Panteras Negras Volleyball Club Inc.,
St. Louis, MO
Panthers Track Club, Friendwood, TX
Par Incorporated, Maywood, IL
Paradox Foundation-Paradox House,
Columbus, OH
Parent Action of Baltimore County Inc.,
Owings Mills, MD
Parent Organization for Highland Park
North Elementary School, Topeka,
KS
Parent Power Project Corporation,
Boston, MA
Parent School Community Association,
Grand Island, NE
Parent Support Network of Rhode Island,
Warwick, RI
Parent Training Ministries, San Pedro,
CA
Parents Activating Love Support &
Research, Olympia Fields, IL
Parents Against the Human-
Immunodeficiency Virus, Urbana, IL
Parents and Friends for a Montessori
Alternative in the Public, Lincoln, NE
Parents Anonymous of the Metroplex
Inc., Dallas, TX
Parents of Children Who are Deaf or
Hard of Hearing, Ft. Dodge, IA
Parichoy Bengali Association of Greater
New Haven, New Haven, CT
Park Center Band Endowment Fund,
Brooklyn Park, MN
Park Conservancy Inc., St. Louis, MO
Park Place Community Development
Corporation, Norfolk, VA
Parker District Family Association,
Taylors, SC
Parker Runaway Inc., Parker, CO
Parmer County Crime Stoppers Inc.,
Farwell, TX
Part of the Solution of Massachusetts
Inc., Boston, MA
Partners for Safety, Pottstown, PA
Partners in Catholic Education, Lake
Jackson, TX

Partnership for Environmental
Technology Education Inc.,
Sacramento, CA
Partnership for Excellence Hawthorn
Education Foundation, Vernon Hills,
IL
Partnership Institute, Glen Ellyn, IL
Paschima Badarikashram, Denver, CO
Pasco International Inc., North
Brookfield, MA
Pass It On, Ps, CA
Passaic River Basin Alliance Inc.,
Pompton Lakes, NJ
Pastor Julian Childrens Fund, Fort Mill,
SC
Path, Dallas, TX
Paul Copeland Ministries Inc., Columbia
City, IN
Paul L. Blankenship Memorial
Foundation, Cedar Crest, NM
Pauline Hollander Scholarship Fund for
Registered Nurses Inc., Pomona, NJ
Peace for Families, Roseville, CA
Peace Inc., Texas City, TX
Peace Studies Initiative, Asheville, NC
Peaceable Kingdom Inc., Hampden, ME
Pediplace, Lewisville, TX
Peer to Peer, Kansas City, MO
Pegasus Therapeutic Riding Center Inc.,
Montrose, CO
Penn Hills Veterans Monument Fund,
Verona, PA
Pennsylvania Anthracite Miners
Memorial fund, Shenandoah, PA
Pennsylvania Rep Company Inc.,
Stroudsburg, PA
Penobscot Art Group Association, Detroit,
MI
People Assisting Little Stars, Buffalo
Grove, IL
People Encouraging People Foundation,
San Luis Obispo, CA
People for Action and Community
Togetherness, Groton, CT
People to People Benefit Corporation,
Denver, CO
People with a Vision, Harrisburg, PA
Peoples Outreach Ministries, Newport
News, VA
Perkasie Community Ambulance
Corporation, Perkasie, PA
Perpetual Affordable Housing Foundation
Inc., Scottsdale, AZ
Perry Community Development Inc.,
Perry, IA
Persian Culture Center, Nashville, TN

Personal and Career Development Ace Inc., Memphis, TN
 Personal Development Corporation, Rochester, NY
 Pet Ethical Treatment Society, Smithville, MO
 Pet Parents Foundation Inc., Quincy, MA
 Pet Survival Inc., Albany, NY
 Petach Tikva Foundation Inc., Miami Beach, FL
 Pets are Loving Support Inc., Oklahoma City, OK
 Phase V Limited of Delaware Inc., Dover, DE
 Phil Clanton Ministries Inc., Harvest, AL
 Philadelphia Alliance for Community Improvement OCV, Philadelphia, PA
 Philadelphia Area Minority Job Fair, Philadelphia, PA
 Philadelphia Theater of Classic Works Inc., Audobon, NJ
 Philadelphia Virtuosi Chamber Orchestra Inc., Philadelphia, PA
 Phoenix Hill Association Inc., Louisville, KY
 Phoenix Rheumatology Association Inc., Scottsdale, AZ
 Piedmont Challenger League Inc., Kernersville, NC
 Piedmont Suzuki Players, Chapel Hill, NC
 Pierce County Food Pantry Inc., Blackshear, GA
 Pilgrim Inc., Chicago, IL
 Pilgrims Peace Center, Bethlehem, PA
 Pine Creek Land Conservation Trust Inc., Ingomar, PA
 Pine Point Treatment Center Inc., Jackson, TN
 Pine Street Inn Housing Inc., Boston, MA
 Pineland Early Learning Center Inc., Pineland, TX
 Pious Propagating Islam Over United States, Fort Worth, TX
 Pittsburgh Air & Space Museum, Pittsburgh, PA
 Pittsburgh North Optimist Foundation, Pittsburgh, PA
 Pittsburgh Section of the American Assn for Clinical Chemistry Inc., Pittsburgh, PA
 Pittsburgh Theatre Laboratories, Pittsburgh, PA
 Plainville Farmington Pop Warner Football Devils Inc., Farmington, CT
 Plainville-North Attleborough Santa Fund Inc., Plainville, MA
 Planetary Institute for Ecology, Inc., Cumberland, RI
 Planned Life Assistance Network of Washington State, Seattle, WA
 Plano Senior Coalition Inc., Plano, TX
 Plaquemines Parish Community Health Center Inc., Port Sulphur, LA
 Platte Valley Community Development Initiative Inc., Scottsbluff, NE
 Platte Valley Playhouse Foundation, Columbus, NE
 Plattsmouth Baseball Parents Association, Plattsmouth, NE
 Plattsmouth Economic Development Corporation, Plattsmouth, NE
 Play Ground Theatre Company, Atlanta, GA
 Pleasantville High School Rosbury Scholarship Fund Inc., Armonk, NY
 Plymouth Advancement Association Inc., Plymouth, WI
 Plymouth Art Foundation Inc., Plymouth, WI
 Plymouth-Canton Cheerleaders Booster Club, Plymouth, MI
 Point Forward Inc., Mineral Point, WI
 Police Athletic League of Hialeah Inc., Hialeah, FL
 Police Athletic League of Lakeland Inc., Lakeland, FL
 Policy Dynamics Institute, Parker, CO
 Polish American Legal Defense and Education Fund Inc., New York, NY
 Polish Students Association, New York, NY
 Political Prayer Partners Inc., Tulsa, OK
 Ponca City Tomorrow Foundation Inc., Ponca City, OK
 Ponca He-Thush-Ka Society, Guthrie, OK
 Ponce Coalition Inc., Atlanta, GA
 Pont-Aven School of Art Inc., Acton, MA
 Pope County 4-H Association Inc., Russellville, AR
 Portage Lakes Advisory Council Inc., Akron, OH
 Portland Early Music Consort, Portland, ME
 Portsmouth Community Redevelopment Corporation, Portland, OR
 Positive Beginnings Teen Services Inc., Cincinnati, OH
 Post Modern Society Incorporated, Indianapolis, IN
 Poteau Valley Humane Society, Poteau, OK
 Potters House Inc., Washington, DC
 Pottsville Volunteer Fire Department Inc., Pottsville, TX
 Poulsbo Players, Poulsbo, WA
 Poway Pony-Colt Baseball Inc., Poway, CA
 Power Plus Ministries Inc., MacClenny, FL
 Powersizing Educational Programs Inc., St. Louis, MO
 Pownal Food Pantry, Pownal, VT
 Prairie Edge Inc., Oberlin, KS
 Prairie Life Historical Foundation Inc., Wellsville, MO
 Prairie Wind Animal Refuge, Agate, CO
 Praise Mountain Ministries Inc., Florissant, Co
 Praise the Lord Ministries, Lakewood, CA
 Prajapati Association Inc., Union City, NJ
 Prattville Fall Baseball Inc., Wetumpka, AL
 Pre-T E C Inc., Chicago, IL
 Presbyterian Village Redford, Redford, MI
 Preservation Association of Lincoln, Lincoln, NE
 Preservation of Abandoned Dogs and Cats Society, Marshall, OK
 Preserveamerica Educational Foundation Inc., Salisbury, NC
 Presidio Theater Company Inc., Tucson, AZ
 Preble County Youth Foundation Inc., Eaton, OH
 Precious Heritage Academy Inc., Advance, IN
 Pregnancy Testing and Guidance Center of Grady County Inc., Chickasha, OK
 Prenatal Care Steering Committee Inc., New York, NY
 Prentiss Kiddie Kollege, Prentiss, MS
 Presbyterian Village East, New Baltimore, MI
 Press on Ministries, Kenner, LA
 Preventive Care Centers Inc. a Delaware Corporation, Ocean, NJ
 Pride Africa, Arlington, VA
 Pride People Resisting Increased Deceptive Encounters, Heflin, AL
 Priime Tiime Today, Littleton, CO
 Primary Care Systems Inc., Cambridge, MD
 Primary Preparatory, Memphis, TN
 Primary Purpose Family Recovery Center Inc., Wheat Ridge, CO
 Principles of Knowledge Representation & Reasoning Inc., Waban, MA

Prisoners with AIDS Rights Advocacy Group Inc., Jonesboro, GA	Progressive Pioneers Inc., Cleveland, OH	Prosperity House Developmental Center, Dallas, TX
Private Arts Press, Chicago, IL	Project 18, Marshall, VA	Providence the First Serbian Artists Association, Chicago, IL
Private Mathison Manor Resident Management Corporation, Centreville, IL	Project 2000 Inc., Richardson, TX	Providers of Youth and Family Social Services, Philadelphia, PA
Pro Active Health Care Institute, Pueblo, CO	Project Academy Inc., Henderson, TX	Public Affairs Producers Co., Missoula, MT
Pro Deo et Fratribus U S A Inc., Wappingers Falls, NY	Project Cope Count on Plenty Education, Westport, CT	Public Intelligence Inc., New York, NY
Pro Fide Inc., Bloomfield Hills, MI	Project – Fannins Youth Inc., Bonham, TX	Public Interest Law Project Inc., Bridgeport, CT
Pro Life Maryland Education Foundation Inc., Annapolis, MD	Project Friendship of Maryland Inc., Annapolis, MD	Public Service Institute Inc., Herman, PA
Pro Tect Kids, Dallas, TX	Project Harmony-Baton Rouge, Baton Rouge, LA	Puppy Love Inc., Kansas City, MO
Problem Pregnancy of Worchester Inc., Worchester, MA	Project ID Inc., Chicago, IL	Purple Paw Foundation, Northbrook, IL
Problems to Solutions Inc., Milwaukee, WI	Project Idaho Inc., Lewiston, ID	Purvi Patel Foundation Inc., Cooper City, FL
Professional Credit Financial Institute Services Inc., Suwanee, GA	Project Impact Dekalb County Inc., Lithonia, GA	
Professional Football Alumni Inc., New Orleans, LA	Project Independence Inc., The Woodlands, TX	If an organization listed above submits information that warrants the renewal of its classification as a public charity or as a private operating foundation, the Internal Revenue Service will issue a ruling or determination letter with the revised classification as to foundation status. Grantors and contributors may thereafter rely upon such ruling or determination letter as provided in section 1.509(a)–7 of the Income Tax Regulations. It is not the practice of the Service to announce such revised classification of foundation status in the Internal Revenue Bulletin.
Professional Foundation and Health Coalition Inc., Berea, KY	Project L A W S Inc., Phoenix, AZ	
Professional Institute for Advanced Wound Recovery Inc., Miami, FL	Project Longlife Inc., Columbus, MS	
Professionalism in Writing School Inc., Tulsa, OK	Project Poly Inc., Port Arthur, TX	
Progressive Firefighters of Fairfax Foundation Inc., Springfield, VA	Project Simeon 2000, Chicago, IL	
	Project Success Coalition, Ogden, UT	
	Project Waynoka Foundation, Waynoka, OK	
	Projects for a New Millennium Inc., Stony Creek, CT	
	Promise Place, Harrisburg, PA	
	Proprietary Associates Inc., Philadelphia, PA	

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as "rulings") that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it ap-

plies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in law or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in the new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the

new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C.—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.

E.O.—Executive Order.
ER—Employer.
ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contribution Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign Corporation.
G.C.M.—Chief Counsel's Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.

PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.
PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statements of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

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